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ENERGY
COMMISSION

Permit Streamlining for Petroleum Product Storage

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EXECUTIVE SUMMARY

Background

Historically California has been reasonably self-sufficient in both crude oil and products. In addition to the crude oil produced domestically, California's supply has been supplemented by crude oil from Alaska, and a certain amount of specialty crude oils from the Pacific, and occasionally from the Middle East. Product imports were always minimal. This supply picture began to change during the past few years, and California now finds itself at a point where a confluence of trends and events may have a deleterious impact on the state.

Changes in the market center around a number of factors, many of which California has no control over. California does, however, have control over some market influences. Converging trends include:

- Both federal and state officials are forecasting a steady increase in petroleum consumption during the next two decades, largely in transportation fuels.
- California faces growing dependence on imported petroleum.
- The specifications of California's transportation fuels are such that few refineries outside the state can currently manufacture these fuels.
- Changes in shipping and storage management have introduced efficiencies that have reduced the volume of inventory normally carried by both refiners and terminals, resulting in fewer tanks.
- Increasingly stringent environmental and safety regulations for petroleum product storage facilities have put further pressure on the implementation of optimal inventory management, and has led to the abandonment of older storage facilities.
- All sectors of the petroleum industry have been subject to mergers and acquisitions, reducing the number of firms whose aim is then to optimize and often reduce their assets to recoup their investment costs. This trend results in reductions to "redundant" storage capacity.
- Although California is slated to become more import-dependent the state is just at the cusp of the change. As a result, the current volume of imports fluctuates erratically, creating problems with tank availability.

The growth of demand and the need to import supplies has focused the attention of the California Energy Commission (Energy Commission) on the process of permit acquisition for tanks, this being one of the factors in the equation that they do, indeed, have control over. Anecdotes, complaints, and some information have raised concerns about the complexity of the permit process, a concern that other states are facing as well. The possible concerns range from overly complex regulations, to open-ended time frames, to overlapping jurisdictions, and to barriers raised by citizens (known as NIMBY). All of this translates into additional costs that ultimately get passed on to the consumer.

In a recent California Energy Commission analysis of options for a strategic fuel reserve, the permitting process for petroleum storage tanks was identified as potentially

contributing to a shortage of storage capacity for petroleum product.[1] This study, *Permit Streamlining Petroleum Product Storage* was initiated to examine the permitting process for the construction, expansion, or acquisition of petroleum product storage facilities and identify potential areas for improvements and streamlining. This study is an attempt to actually quantify whether or not the complaints are correct and to identify where in the process the problems may lay. If the Energy Commission can identify a true barrier and quantify it, then the basis for streamlining options can be established.

Overview

The analysis was conducted in three phases. Under Phase I, interviews were conducted with permit applicants and representatives of permitting agencies involved in the permitting process for the construction or modification of refinery and storage tanks related to methyl tertiary butyl ether (MTBE) phase out as a gasoline additive. The Executive Order mandated the phase out to be completed by January 2003. This deadline has been extended to January 2004 due to the fact that companies do not have the infrastructure to accommodate the reformulated gasoline.. One factor contributing to this delay was attributed to the lengthy and complicated permitting process. Regulatory research was conducted under Phase II to identify current regulatory processes that hold the greatest potential for improvement. This final report, prepared under Phase III, includes the results of the analyses conducted under Phase I and II and recommendations as ways the State might facilitate and improve the permitting process to reduce the time, expense, and uncertainties incurred by permit applicants.

Findings

Construction of new petroleum storage facility will typically require the following permits: land use permit, building permits, authority to construct permit, hazardous waste generation permit, industrial waste discharge permit, national pollutant discharge elimination system permit, transportation permit, etc., from federal, state, regional and/or local agencies or entities. In almost all cases, construction of new petroleum storage tanks, or expansion of existing facilities will trigger an environmental impact review under the California Environmental quality Act (CEQA).

The three type of permits identified by permit applicants to be the principal cause of permit delays are: conditional use permits,[2] building permits, and air permits. City Planning and Building Commissions approve conditional use permits and building permits. The Regional Air Pollution Control District (APCD) or Air Quality Management District (AQMD) approves air permits or the Authority to Construct. There is no standardized procedure or rule of thumb to let the permit applicants know which permit

[1] California Strategic Fuel Reserve Report. Energy Commission Contractor Report P600-02-017D. July 2002.

[2] Conditional use permits are needed if the proposed project site for a new petroleum product storage facility is not zoned for industrial use. Conditional use permits allow the proposed project to proceed, without requiring a zoning change. Conditional use permits are increasingly required where light industrial development has encroached upon areas formerly zoned for heavy industrial use.

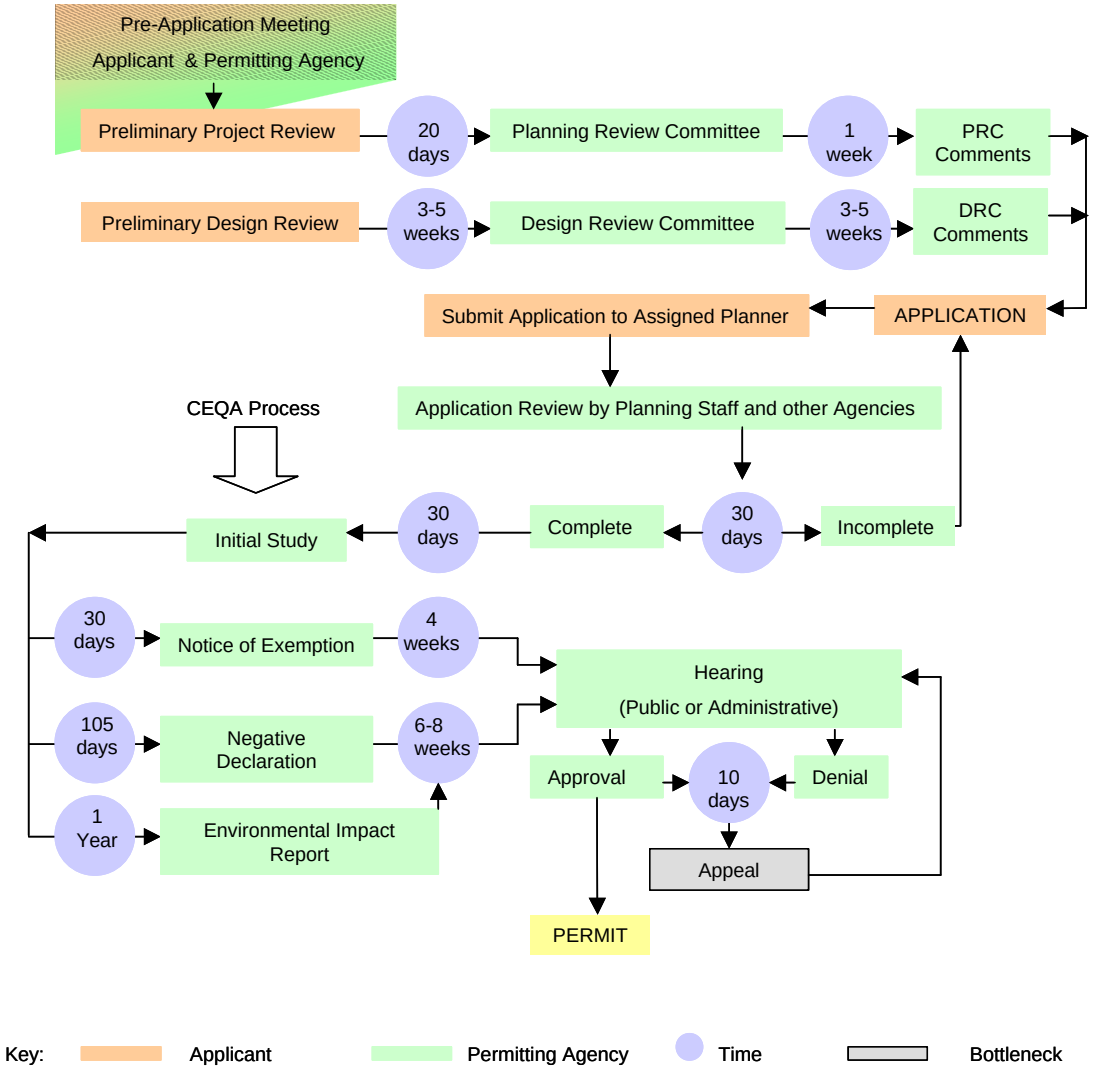
to apply for first. Permit applicants can apply for all the permits at the same time or apply for the permits consecutively. Depending on the location of the project and the permitting jurisdictions involved, Authority to Construct from the Air District may be approved only if the land use permit for was previously approved, or vice versa. Therefore, the strategy for applying for permits is an important consideration in project development. One respondent commented that applicants should concentrate on fulfilling CEQA requirements first.

For construction of new petroleum product storage facilities where a conditional use permit is necessary, the local Planning Commission normally serves as a lead agency under CEQA to coordinate its environmental review with other agencies. For upgrades, renovation, or construction of storage tanks, where conditional use permit is not required and an air permit is, the Air District normally assumes the lead agency role under CEQA. The lead agency must evaluate the proposed project to determine if it has potential to have any significant adverse effects on the environment. The lead agency is required to prepare either a Notice of Exemption (NOE) when it decides that a project is exempt from CEQA and grants approval of the project; a Negative Declaration (ND) indicating that the project will have no significant effect; or an Environmental Impact Report (EIR), which describes the potential negative impacts of the proposal and mitigation measures. After the Negative Declaration or the Environmental Impact Report have been completed, they are subject to public hearings and appeals. Permit applicants indicated that an environmental determination under CEQA could be appealed indefinitely. It appears that multiple appeals have been used as a delaying tactic by groups opposed to specific projects. Exhibit 1 shows a flowchart of a typical permitting process.

Permit applicants and permitting agencies indicated that a conditional use permit could be one of the most difficult and time consuming permits to obtain because of the NIMBY factor (not-in-my-backyard). Neighboring residential communities often oppose new construction or expansion of petroleum storage facilities. Air permits may be also time-consuming to obtain because regional Air Districts have more stringent New Source Review (NSR) requirements than Federal NSR. State-level NSR reviews may require Best Available Control Technology (BACT) control equipment and/or emission offsetting for Volatile Organic Compounds (VOCs). Permit applicants indicated that Air Districts NSR rules may have no clear de-minimus trigger for emission offsetting and BACT requirements are unclear.

Local building departments issue building permits for petroleum storage facilities if the permit application package is complete, the project complies with all applicable building codes, and the project has received all other approvals (e.g., conditional land use permits, air permits). Building permits can be a significant source of delay in the permitting process because often involve complex negotiations between permit applicants and building department personnel over the interpretation of building, zoning, fire safety and other codes and regulations. Almost eighty percent of permit applicant's indicated that more staff and training was needed at the city council level and there was an almost universal desire for training on refining products. The lack of knowledge of the petroleum industry contributed to a significant extension of permitting timeline.

Exhibit 1. Typical Permitting Process



The 1977 California Permit Streamlining Act (PSA) is intended to speed the processing by public agencies of permits for development projects. In general, the PSA specifies that once a permit application is deemed complete the permit application is to be processed through the decision hearing (not including any appeals) in sixty days if the project is exempt from environmental review under the California Environmental Quality Act (CEQA); four months if the project requires an Negative Declaration under CEQA, and one year if the project requires an Environmental Impact Review under CEQA. This study found that time limits set by the Permit Streamlining Act frequently exceeded during the permitting process for petroleum product storage facilities.

Recommendations to Streamline the Permitting Process

The permitting process in California is in general detailed and complex. The permitting process for petroleum product storage facilities is particularly challenging for permit applicants and permit writers. The potential benefits of streamlining the permitting process for petroleum product storage facilities include an increase in petroleum storage capacity, which would improve fuel supply reliability throughout the State.

Interviews with permit applicants for new petroleum product storage facilities indicated that the most difficult permits to obtain, and the ones holding up the entire permitting process, are one or more of the following permits: air quality permits; land-use approvals, such as conditional use permits; and building permits.

Based on survey responses the study team provides the following recommendations:

- Provide training and technical assistance services to city and county building department staff to facilitate permits reviews and field inspections of new petroleum product storage facilities.

- Provide training to local planning and building officials, when needed, in performing California Environmental Quality Act environmental reviews for issuing permits for construction of petroleum product storage facilities.

- Expansion of “hourly rate” approach to permit fees will promote hiring and training of staff. Also, applicants could directly fund consultants to assist permitting agencies in reviewing permit applications.

- Applicants should request preapplication conferences or “scoping” meetings with the permitting agencies to discuss how agencies’ specific rules will apply to their proposed projects. The California Permit Streamlining Act requires all state and local agencies to list the information needed from permit applicants and the criteria they will use in evaluating a project application.

- Establish a system where permitting agencies at the state, district, and municipal level set up, at the inception of the permitting process, a schedule and milestones for the permit review process and establish systems and procedures for the transfer of information among the permitting agencies. Municipalities should work together with the State-level and regional-level agencies with respect to review of the permit applications submitted at the city level. If the local authorities coordinate with the

regional and state-level staff reviewing various permit applications, the transfer of information could speed up the permitting process.

- Expand participation in Certified Unified Program Agencies and the Unified Program to the Air Districts, Water Districts, local building and zoning, etc.

- Provide statewide authority for implementing and enforcing the Permit Streamlining Act.

- The agency responsible for implementing the PSA should establish a timeline and milestones for each permitting project, and the agency should track whether the timeline and milestones are being met, and provide for corrective action in the event that they are not being met.

- Update General Plans and zoning ordinances indicating where petroleum product storage facilities are either allowed, require permits or zoning changes, or are prohibited. Clarify when there is a need for a conditional use permit.

- Reduce discretionary decisions by individual permit writers, especially at the local level. Permitting agencies should make their decisions based on specific written guidelines and standardized information requirements. If two developers apply for permits for the same type of facility in the same jurisdiction at different times, they should be subject to a similar permitting process and similar permit requirements, and should be required to submit the same general level of detailed information to

- Provide an independent review of the practice whereby two environmental review studies are prepared at the same time, for the same project, both funded ultimately by the project applicant. Evaluate ways to eliminate this duplication of effort and cost, while avoiding conflicts of interest.

- Involve the Community. Neighbors want to have a voice in the development decision-making for their communities. Permit applicants and agencies should involve the community earlier in the planning process to explain them the benefits and environmental safeguards that the proposed project will have.

- Create a Permit Ombudsman. The ombudsman would assist applicants through the local review process by serving as primary contact throughout the process, responsible for tracking review progress, spurring things along where needed, and reporting status or additional information needs back to the applicant.

- Promote a Unified Program for Permit Review. Currently, the various permit applications required for permitting of new and expanded facilities are reviewed by separate agencies at separate times using separate processes. Municipal agencies, in particular, may not have ready access to information prepared by the applicant or by other permitting agencies for other permit applications. One way to remedy the situation would be to establish a “unified program” under which the various agencies have access to the same information and are in direct communication throughout the permitting process.

1. INTRODUCTION

1.1. Project Objectives

This report, *Permit Streamlining Petroleum Product Storage* was initiated by the California Energy Commission (Energy Commission) to examine the process by which the petroleum industry must engage with permitting agencies and with the public to obtain permits required for the construction, expansion or acquisition of petroleum product storage facilities. The objectives of this study are the following:

- To identify bottlenecks, redundancies, or other unnecessarily burdensome regulatory processes that add undue cost and delays to the permitting process, and
- To develop recommendations to reduce the time, cost, and uncertainties associated with permitting of new and expanded petroleum product storage facilities.

The potential benefits of streamlining the permitting process include increased petroleum storage capacity in the state of California, which could reduce short-term price increases associated with refinery outages and other similar supply disruptions, and improve fuel supply reliability throughout the State. It should be emphasized that the intent of this analysis is not to recommend changes to any existing regulatory standards for public safety or environmental quality. This analysis is only concerned with improving the administrative processes by which permit applicants obtain permits that comply with all existing regulations and standards.

Section 2 of this report provides an overview of the permitting and approval process for refined petroleum product storage tanks, incorporating relevant information about permitting time and permitting cost issues identified by interviewees. Section 3 presents survey results. Section 4 includes a discussion of areas for potential improvement based on analysis of the survey results and regulatory research. Section 5 provides conclusions and recommendations with respect to specific methodologies for streamlining the permitting process and improving permitting time and cost. Six appendices are provided. Appendices A and B contain a list of companies and agencies interviewed and the sample survey respectively; Appendices C and D provide additional information on the California Environmental Quality Act and its environmental checklist form respectively. Appendix E provides information on the California Permit Streamlining Act, a comparison of permit processes in other states is provided in Appendix E.

Based on the results of the surveys conducted under Phase I and supporting information obtained from regulatory research conducted under Phase II, specific recommendations were developed for permitting issues that have the greatest potential for modification and streamlining. The recommendations include steps that the State can implement to improve the permit process to accommodate cost effective and more timely construction and expansion of necessary storage facilities throughout the State. A graphical summary of the steps that are currently required for construction and permitting of a typical petroleum product storage tank was developed and is shown in Exhibit 1.

1.2. Overview of Study Methodologies

The analysis was conducted in three phases. Under Phase I, interviews were conducted with permit applicants and representatives of permitting agencies involved in permitting petroleum product storage facilities. Interviewees were identified based on a preliminary list of industry contacts provided by the California Energy Commission. Additional contacts were identified by selecting companies that had increased total storage capacity of refined products in recent years. This information is available from the OPIS/STALSBY *Petroleum Terminal Encyclopedia*.

The interviews focused on identifying the necessary permit approvals needed prior to construction or expansion of petroleum product storage facilities; whether permitting obstacles exist that are contributing to increased permitting time and cost; and to what extent any such obstacles can be addressed. A permitting timeframe table represented in Exhibit 9 identifies the permits attributed as potential bottlenecks or causes for delays in the permitting process for petroleum product storage facilities.

Regulatory research was conducted under Phase II to identify current regulatory permitting processes that may be characterized by bottlenecks and that hold the greatest potential for improvement. The California Environmental Quality Act, the California Permit Streamlining Act, regional and local land use and building codes and regulations, Air Quality Districts regulations, and related reports were reviewed to identify potential actions for streamlining the permitting process for petroleum product storage facilities.

This final report, prepared under Phase III, includes the results of the analyses conducted under Phases I and II and specific recommendations of ways the State could facilitate and improve the permitting process to reduce the time, expense, and uncertainties incurred by permit applicants.

1.3. Description of Survey Process

Interviewees included representatives of commercial storage providers, refiners, and other operators of petroleum product storage facilities who have successfully applied for permit approval for new or expanded storage facilities, recently entered the permitting process, or have determined that permitting barriers preclude the expansion of existing storage facilities. Interviews were also conducted with representatives of state and local permitting agencies. Appendix A lists companies and permitting agencies contacted.

The study team conducted interviews from November 2002 through January 2003. More than fifteen companies were contacted; only ten companies completed the survey. In many cases, more than one permitting manager within a company was interviewed due to their involvement with different permitting agencies. The first contact with permit applicants was done by phone, follow up e-mails with the sample survey as an attachment were sent to respondents to obtain additional information not readily available at the time of the phone interview. Most of the respondents (eighty percent) requested that their surveys responses remain anonymous. Appendix B provides a

sample of the survey used to gather information from permit applicants. Information collected during the interviews included:

- Costs associated with the permitting process relative to the total project cost;
- Timing of costs incurred (i.e. are costs incurred up front, or later in the permitting process);
- Total time required for the permitting process;
- Permitting bottlenecks, or which steps of the permitting process are on a critical path;
- Identification of historical trends in the permitting process;
- Comparison with permitting processes outside California; and
- Specific problems of applicant.

Interviews with representatives of permitting agencies or municipalities were conducted by phone and via electronic mail. The study team found different levels of cooperation among different agencies. Vast majority of the agency representatives interviewed were very helpful; a small minority directed the interviewer to find more information on their web page or provided incomplete information. Information requested of permitting agency representatives included:

- Type of permits needed prior to constructing petroleum product storage facilities;
- The permitting process and timeline;
- Fees and costs associated with the permit;
- Factors that influence the duration and outcome of the permitting process;
- Complaints received by permitting applicants about the time it takes to process the permit;
- Do they believe that their office is understaffed?; and
- What can be done to streamline the permitting process?

2. PERMIT APPLICATION AND APPROVAL PROCESS

2.1. Overview of Permitting Process

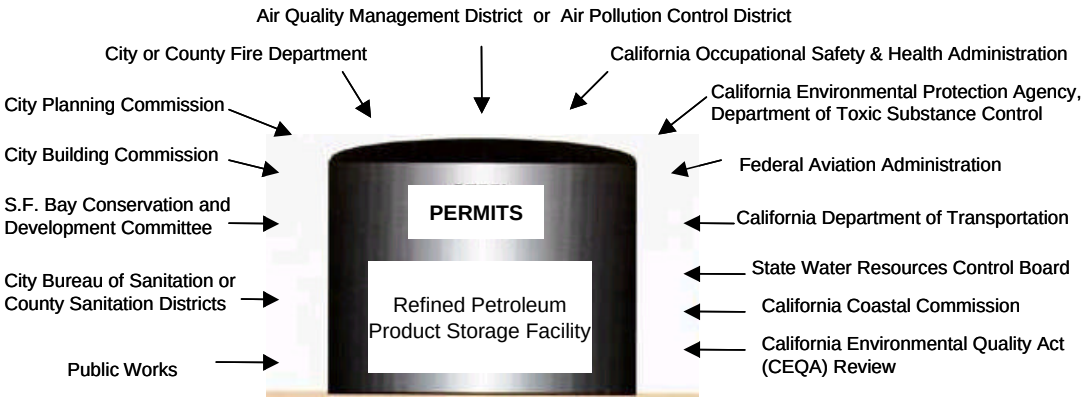
The permitting process for refined petroleum product storage facilities was identified as a significant problem with respect to the permitting process for the construction or modification of refinery and refined petroleum product storage tanks related to the methyl tertiary butyl ether (MTBE) phase out as a gasoline additive, the phase out was required by an Executive Order issued by Governor Davis related to producing CARB Phase III reformulated gasoline. The Executive Order mandated the phase out to be completed by January 2003. This deadline has been extended to January 2004 due to the fact that companies do not have the infrastructure ready to accommodate the reformulated gasoline. One factor contributing to this delay was attributed to the lengthy and complicated permitting process for storage facilities.

A list of typical permitting entities associated with construction or expansion of a petroleum product storage facility is illustrated in Exhibit 2. The involvement of the different permitting agencies and specific permits required is directly determined by the location of the proposed project and the affected resources. The specific geographic location of the project may trigger different federal, state, and/or local regulations; resources affected could be air, water, endangered species habitat, wetlands, etc. The procedure for issuing each particular development permit is governed by the particular law which establishes the permit authority, and by the California Permit Streamlining Act.

Exhibit 2 lists common permits required for a typical new or modified/expanded storage facility. Respondents including applicants and permitting agencies agreed that regulations and the permitting process differ from city to city, and that each project is unique. The permitting process for petroleum product storage facilities in the state of California differs from city to city. There are approximately 468 separate incorporated municipal jurisdictions in California. Each city in the state has its own set of planning and development rules. Land use approvals and building permits must be obtained from local municipalities. Applicants proposing to construct, modify, or operate a facility or equipment that may emit pollutants from a stationary source into the atmosphere must first obtain an Authority to Construct from the Regional Air District. California has thirty-five Air Pollution Control and Air Quality Management Districts, each with a different set of rules and regulations to control emissions. Respondents confirmed that there is no standard procedure regarding which permit to file first, however, one respondent commented that applicants should concentrate on fulfilling CEQA requirements first. There is no standardized procedure or rule of thumb to let the permit applicants know which permit to apply for first. They can apply for all the permits at the same time or apply for the permits consecutively. However, depending on the location of the project and the permitting jurisdictions involved, the air quality permit for a project may be approved only if the land use permit for the project is previously approved, or vice versa. Therefore, the strategy for applying for permits is an important consideration in project development.

The three types of permits identified by permit applicants to be the main causes of permit delays are conditional use permits,[3] building permits, and air permits. City Planning and Building Commissions approve conditional use and building permits; the regional Air Pollution Control District (APCD) or Air Quality Management District (AQMD) approves air permits or the Authority to Construct.

Exhibit 2. Sample of Permitting Entities for Petroleum Product Storage Facilities



2.1.1. The California Environmental Quality Act Process

The State of California enacted the California Environmental Quality Act (CEQA) in 1970, to ensure that state and local agencies consider the environmental impact of their decisions prior of approving a public or private project development. Every development project that is not exempt from CEQA must be analyzed by the lead agency[4] to determine the potential environmental effects of the project. It must be completed within specified time periods, which are concurrent with the time line during which an agency is required to approve or deny the project.

For construction of new storage facilities, the local Planning Commission normally serves as a lead agency under CEQA to coordinate its environmental review with other agencies. For upgrades or expansions of existing storage facilities, where a land use permit is not required and an air permit is required, the Air District assumes the lead agency role under CEQA. Once the lead agency is identified, all other involved agencies, whether state or local, become responsible[5] or trustee[6] agencies. Responsible

[3] Conditional use permits or zoning changes are not needed if the proposed project site for a new petroleum product storage facility is already zoned for industrial use, or if the construction of additional petroleum product storage tanks at an existing facility is deemed an "accessory use" at the site.

[4] The Lead Agency is the public agency which has the principal responsibility for carrying out or approving a project. The Lead Agency decides whether an Environmental Impact Report or Negative Declaration is required for a project, and causes the appropriate document to be prepared.

[5] A Responsible Agency is a public agency which proposes to carry out or approve a project, for which a Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of CEQA, the term Responsible Agency includes all public agencies other than the Lead Agency which have discretionary approval power over the project.

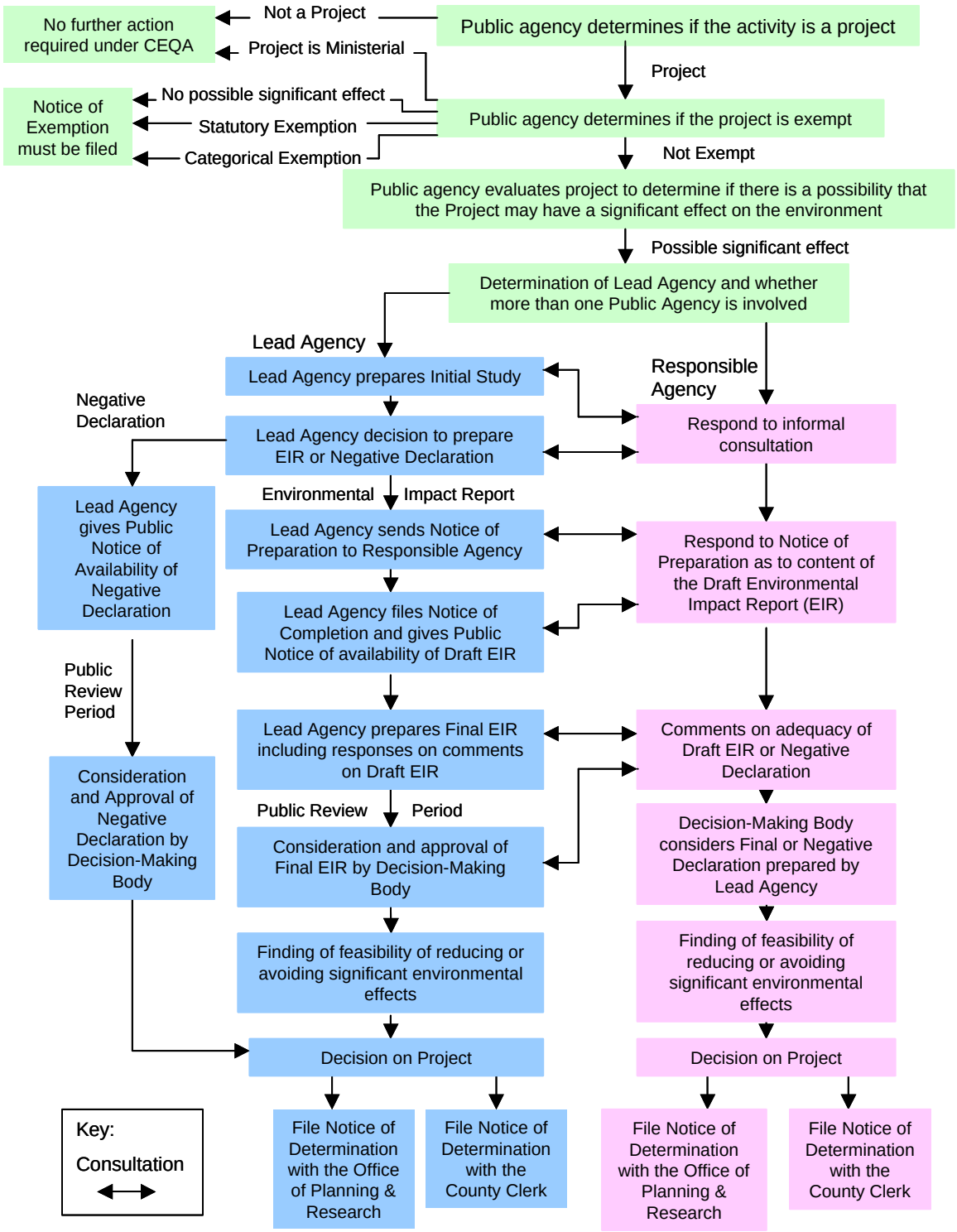
and trustee agencies *must* consider the environmental document prepared by the lead agency and *do not*, except in rare instances, prepare their own environmental documents. Refer to Appendix C for detailed information on the CEQA process. Exhibit 4 shows the CEQA Process flowchart

Exhibit 3. Common Permits Required for a Typical Facility

Agency	Permit
Federal	
Federal Aviation Administration (FAA)	Proposed Construction or Alteration of Objects that May Affect Navigable Airspace
State	
California Environmental protection Agency, Department of Toxic substance control	On-site Hazardous Waste Generation
State Water Resources Control Board (SWRCB)	National Pollutant Discharge Elimination System (NPDES) Permit/ Wastewater Discharge
California Department of Transportation	Transportation Permit
California Occupational Safety & Health Administration	Construction-related permits
California Coastal Commission	Development Permit
Regional or Local	
Air Quality Management District	Authority to Construct Permit
	Permit to Operate
CEQA Lead agency	California Environmental Quality Act (CEQA) Review
Regional Water Quality Control Board (RWQCB)	National Pollutant Discharge Elimination System (NPDES) Permit/Waste Discharge requirement.
Municipal Government	Land Use Permit . (i.e., conditional Use Permit)
	Building Permit
	Grading Permit
	Plumbing and Electrical Permits
County or Municipal Fire Department	Hazmat Permit/ Hazardous Materials Business Plan
	Above Ground Storage of Hazardous/Flammable Materials
County or City Bureau of Sanitation	Industrial Wastewater Discharge Permit

[6] A Trustee Agency has jurisdiction over certain resources held in trust for the people of California. The State Department of Fish and Game is one of four trustee agencies. The others include the State Lands Commission, the Department of Parks and Recreation, and the University of California. Trustee agencies are generally required to be notified of CEQA documents relevant to their jurisdiction, whether or not these agencies have actual permitting authority or approval power over aspects of the underlying project.

Exhibit 4. CEQA Process Flowchart



2.1.2. Local Permitting Process

Many development projects may require more than one type of local or municipal permit. When more than one type of permit is required, the Planning Commission encourages the developer to submit all the applications as one package, which will be processed concurrently. The following discussion summarizes a typical process for review and approval of development projects at the local level. Exhibit 5 illustrates an example of a typical permitting process at the local level, in this case for Martinez City.

Pre-Application Meeting. The applicant schedules a meeting with a staff planner and engineer to describe the proposal and to obtain the general plan policies, zoning requirements, engineering standards and any other applicable city policies or regulations. The staff explains procedures for processing development applications and should indicate all items required for submittal for preliminary review by the Planning Review Committee (PRC).

Planning Review Committee (PRC**)**. Projects are scheduled for PRC review within twenty days of the submittal. Prior to the PRC meeting, staff will review the plans; visit the proposed site and review City policies and regulations pertaining to the proposal. Applicants are strongly encouraged to submit preliminary proposals for project review early in the process of designing the project. The PRC is composed of staff from the Community Development Department (planning, building, engineering and water), police and consolidated fire.

PRC Comments. The applicant will be notified of PRC comments within ten days. PRC comments typically include staff concerns with the project, project conformance with City policies and regulations, recommendations for revisions to the project, required applications and fees, submittal and notification requirements, approximate processing time and recommended conditions of approval. PRC comments should be included in the Preliminary Design Review if applicable.

Preliminary Design Review. Plans and maps should be submitted for Preliminary Design Review early in the process so that revisions to the plans to incorporate the Committee's suggestions can be made prior to formal submittal. The Design Review Committee (DRC) consists of architects, landscape architects and other members, appointed by the City Council, to review the design aspects of proposals and make recommendations to the Planning Commission. The Design Review Committee usually meets twice a month. Projects are scheduled for Design Review within three to five weeks following the submittal.

Application Submittal Applicants revise plans in response to staff (PRC) and Design Review comments and submit completed application forms and findings, plans, fees, notification requirements, environmental assessments and studies, soils reports, etc. to the Project Planner.

Plan Distribution Upon receipt of the application, the planner distributes the plans to the engineering division, fire district, and responsible agencies for review. Within 30 days from receipt of the application, staff should provide a written notification indicating the status of the application. If the application is deemed not complete, a list of information needed to complete the application should be provided to the applicant. Each submittal

of new information follows the same procedure for review and notification of completeness within 30 days. No further processing will occur until the application is deemed complete.[7]

Complete Application. When the application is deemed complete, staff reviews the environmental checklist to determine if additional information is needed for the environmental determination. The notice of complete application indicates if additional information is needed. Appendix D shows the CEQA environmental checklist form.

Environmental Review. The City completes the environmental review process required by CEQA. The most basic steps of the environmental review process are to determine if the activity is a project to CEQA; determine if the project is exempt[8] from CEQA; and perform an Initial Study[9] to identify the environmental impacts of the project and determine whether the identified impacts are significant. Typically, a consultant retained by the City at the applicant's expense does the Initial Study. In order to assist in this review the consultant can use any background information submitted by the applicant. The Initial Study must be made within thirty days after the application is deemed complete.

The construction of petroleum product storage facilities is subject to CEQA requirements. CEQA requires the potential environment impact of projects to be evaluated prior to approval. A Negative Declaration is required for projects which have been determined to have no significant impacts. A Mitigated Negative Declaration is required for projects which could have a significant impact but have mitigation measures incorporated into the project to mitigate potential impacts. An Environmental Impact Report (EIR) is required for projects, with significant impacts or impacts that cannot be mitigated.

Time Limits. CEQA requires preparation of a notice of exemption within thirty days of a completed application, adoption of a Negative Declaration within 105 days of a completed application and adoption of an EIR within one year of a completed application. The Planning Commission is required to consider the project within fifty days of approval of the environmental document. In order to shorten processing times,

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[7] According to the Permit Streamlining Act an application may become complete or be deemed complete at any of the following four stages: a) The City or Permitting Agency (Agency) receives a permit application for the first time: The Agency must determine in writing and within 30 days if the application is complete or, if no written determination is made within the 30 days, the application is deemed complete. b) The Agency receives a resubmitted application: The Agency must determine in writing and within 30 days if the application is complete or, if no written determination is made within the 30 days, the application is deemed complete c) The Agency receives a second resubmitted application: The Agency must determine in writing and within 30 days if the application is complete or, if no written determination is made within the 30 days, the application is deemed complete or d) The Agency receives a written appeal of the Agency's determination that the second resubmitted application was incomplete: A decision on the Applicant's written appeal must be made by the Agency within 60 days of receipt of the Applicant's appeal or the application is deemed complete.

[8] A project could be Statutory or Categorical Exempt. Statutory exemptions are descriptions of types of projects for which the California Legislature has provided a blanket exemption from CEQA procedures and policies. Categorical exemptions are descriptions of types of projects which the Secretary of the Resources Agency has determined do not have a significant effect on the environment.

[9] Initial Study means a preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

approval of the environmental document and consideration of the project are generally scheduled for the Planning Commission at the same meeting.

Public Hearing. Upon completion of the environmental review, the project should be scheduled for a Planning Commission hearing. The hearing is scheduled based on the required public notification. There is a minimum ten-day notification for all public hearings. There is a minimum twenty-day notification for all Negative Declarations (thirty days if a State agency is involved) and a thirty-day notification for draft Environmental Impact Reports. Typically projects are scheduled for the Planning Commission hearing within four weeks after the project is deemed complete for projects exempt from CEQA, and within six to eight weeks from completion of a Negative Declaration or EIR.

Planning Commission Agendas & Reports. Municipal government staff prepares a report, which describes the project and discusses how the project complies with City policies and plans. When the staff recommends approval of a project, a set of recommended conditions for approval are prepared and attached to the report. These conditions are required prior to the issuance of permits for the project or upon completion of the project. These reports and conditions are typically completed about the time the public hearing notice is sent out, ten days prior to the hearing. A meeting is scheduled with the applicant to review the draft staff report and proposed conditions of approval.

Planning Commission Meeting. At the Planning Commission meeting, the Chairperson introduces the item and the staff gives a report and recommendation. The Commissioners may ask for clarification. The applicant makes a brief presentation and acknowledges concurrence with the recommendation or concerns with specific conditions. The public hearing is opened by the Chairperson to hear testimony either for or against the project. Before closing the hearing, the applicant is given the opportunity to respond to questions or comments. The Chairperson closes the public hearing, the Commission discusses the project, a motion is made to approve with conditions, deny or continue the project. If the Commission requires additional information to make a decision the proposal is continued, to a future date.

Approval Letter. Within the week following the meeting, the applicant is sent a letter confirming the Planning Commission's decision. For approved projects, the final conditions of approval are attached.

Appeals. There is a ten-day appeal period from the date of the Planning Commission decision. Appeals can be made by anyone who is not satisfied with the Commission’s decision. All timely appeals are scheduled for a City Council hearing.

Permits. No permits are issued until the end of the appeal period or until an action on the appeal is final. There is no limit on the number of appeals.

Permitting agencies that offer pre-meetings as part of their permitting process affirmed that the service is not fully utilized by applicants. This practice contributes to serious delays in the permitting process because incomplete applications are submitted for review, which must be returned to the developer for completion.

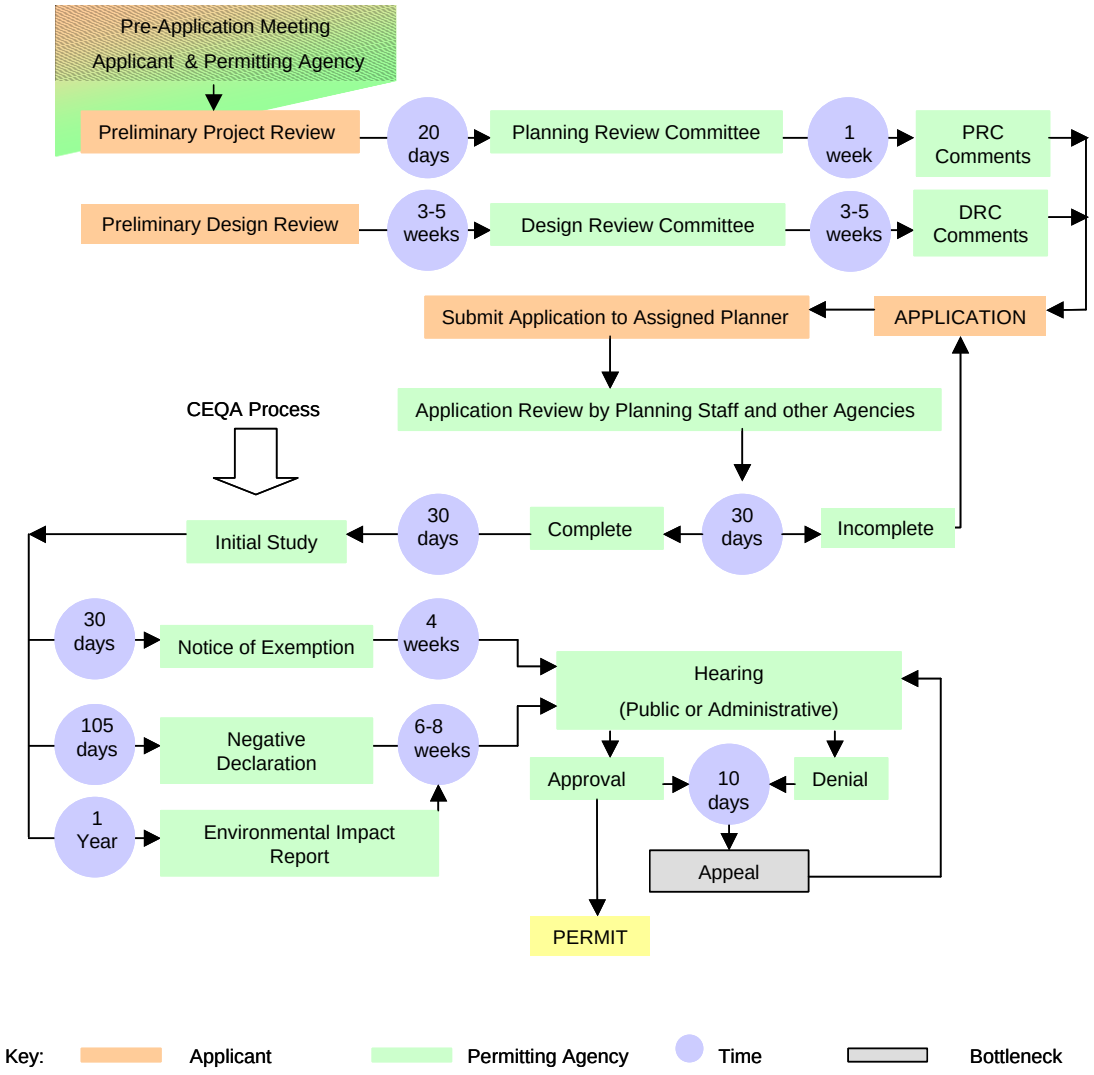
The public may appeal the issuance of a Negative Declaration or an incomplete EIR, etc. In many cases, concerned citizens appealed the environmental determination by

requesting additional studies or information for projects assumed to have environmental and health risks. The applicant can appeal the initial study decision if the recommended action is to develop a complete EIR and they have basis to believe the proposed project won't have significant effects on the environment.

The drawback in the appeal process is that a Planning Commission determination could be appealed indefinitely. As an example, a Planning Commission decision to issue a Negative Declaration to grant the conditional use permit for the construction of an ethanol storage tank at a refinery was appealed by an environmental group several times for different reasons. It appears that such multiple appeals can be used as a delaying tactic by groups opposed to the project. In this case, it took the company more than one year to obtain a Conditional Use Permit.

Exhibit 5 represents an overview of the permitting process at the city level. It is important to highlight that not all permitting agencies offer the opportunity to meet with applicants' prior to submission of the application. The purpose of the pre-meetings or preliminary project reviews is to provide applicants an approximate processing time, related fees, and recommended conditions to facilitate permit approval. Agencies offering pre-meetings commented that that service is not fully used by applicants.

Exhibit 5. The Permitting Process



2.2. Permitting Approval Timeline

This section discusses the overall timeline for permitting new and modified petroleum product storage facilities. The permitting process timeline for new petroleum product storage facility projects based on survey results ranges from eighteen to thirty-two months, depending upon various factors. The primary contributors to the permitting timeline are the CEQA procedures involved in land-use and air quality permitting processes. Under most circumstances other types of permits required for new and expanded petroleum product storage facilities do not contribute significantly to the overall permitting timeline. The most important factors with respect to permitting timeline include the location of the project; the necessity to obtain a conditional use permit; and the necessity to prepare an Environmental Impact Report (EIR) under CEQA.

The Permit Streamlining Act. In 1977, the California Legislature passed the California Permit Streamlining Act (PSA) and established the Office of Permit Assistance (OPA).[10] The PSA was enacted to speed the processing by public agencies of permits for development projects. The Permit Streamlining Act places lead agencies on strict timelines in which to issue all necessary permits. The California Permit Streamlining Act (PSA) sets time limits for government action for permits and approvals for some types of projects. In general, the PSA specifies that once a permit application is deemed "complete" the permit application is to be processed through the decision hearing (not including any appeals) in sixty days if the project is exempt from environmental review under the California Environmental Quality Act (CEQA); four months if the project requires an Negative Declaration under CEQA, and one year if the project requires an Environmental Impact Review under CEQA. Exhibit 6 illustrates the time limits to process CEQA documents for permit applications under the PSA.

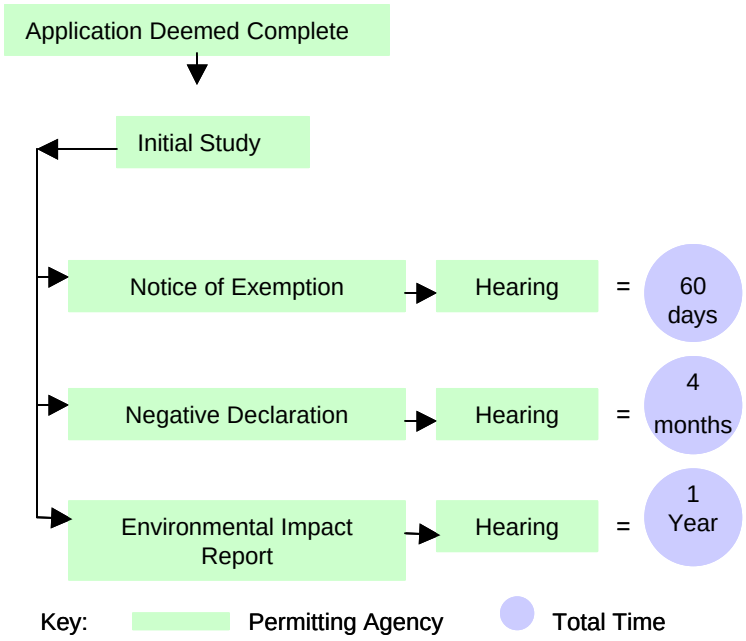
Types of land use permit and building permit applications that are covered by the PSA include: variances, conditional use permits, tentative subdivision plans, and building permits where city discretion is involved (permit is subject to discretionary review hearing). Items that are not covered by the PSA include: certificate of compliance, lot line adjustment, general plan amendments, zoning ordinances, and building permits where no city discretion is involved (permit is not subject to discretionary review hearing). The Permit Streamlining Act does not apply to administrative appeals within a state or local agency. Therefore, if a permit issuance is appealed to a higher body there is no strict time frame within which the appeal must be heard.

The time required to render a permit application “complete” in the view of the permitting agency represents one uncertainty with respect to permitting time. About forty percent of permitting agencies interviewed expressed that the major cause of permitting delays is that applicants do not present the complete set of documentation, studies, or maps when applying for a permit. On the other hand, thirty percent of applicants interviewed point out that they have experienced situations in which agency accepts the application as complete and then calls back after a couple of months requesting additional or missing

[10] The Office of Permit Assistance (OPA) was statutorily charged with enforcing the Act. OPA had fourteen Permit Assistance Centers in California. However, due to state budget cuts the Permit Assistance Centers are in the process of closing

information. The permit application review time may vary depending on project complexity, neighborhood controversy, and the degree to which the project mitigates environmental impacts and conforms to existing regulations and standards. Interviewees indicated that the time limits established in the PSA are not always met.

Exhibit 6. PSA Timeline



2.3. Critical Path Permits

This section discusses three type of permits identified by permit applicants to be the main cause of permit delays.

2.3.1. Land Use Permits

Land use permits include a variety of land use change or development requests, such as zoning changes and subdivisions. Conditional use permits or zoning changes are not needed if the proposed project site for a new petroleum product storage facility is already zoned for industrial use, or if the construction of additional petroleum product storage tanks at an existing facility is deemed an “accessory use” at the site. Whether conditional use permits are required in these two cases depends on the current local zoning ordinances governing the existing or proposed project site. Permit applicants disclosed that the conditional use permit is needed because growth has encroached on petroleum storage facility sites. Land that was once zoned for heavy industrial use in city development plans, now is zoned differently, frequently for light industrial use.

The approval of a conditional use permit is an administrative, quasi-judicial act. It is not a change of zone, but rather a project-specific change in the uses allowed on a specific property. Issuance of a conditional use permit does not involve the establishment of any new codes, regulations, or policies. Instead, a conditional use permit applies the provisions of the zoning ordinance and its standards to the specific set of circumstances that characterize the proposed land use.[11]

Cities and counties have the authority to establish either a board of zoning adjustment or a zoning administrator to hear and decide applications for conditional uses. Local ordinances can establish specific procedures under which a delegated board of appeals will hear and determine appeals from the decisions of the board of zoning adjustment or zoning administrator. In order to encourage concurrent processing for the purpose of expediting zone changes and general plan amendments, Section 65862 of the California Code provides that planning agencies may simultaneously process a consolidated application that may include a use permit, rezoning, and general plan amendment if all three applications encompass the same property.

The California Environmental Quality Act. The issuance of a conditional use permit is an action that is subject to the California Environmental Quality Act. Prior to the public hearing on the proposed conditional use permit, the city or county must evaluate the proposal to determine whether or not it may have any significant adverse effects on the environment. If the proposal is not exempt from environmental review, the city or county is required to prepare either a Negative Declaration, indicating that the conditional use permit will have no significant effect, or an Environmental Impact Report (EIR), which describes the potential negative impacts of the proposal and the means to avoid or lessen those impacts.

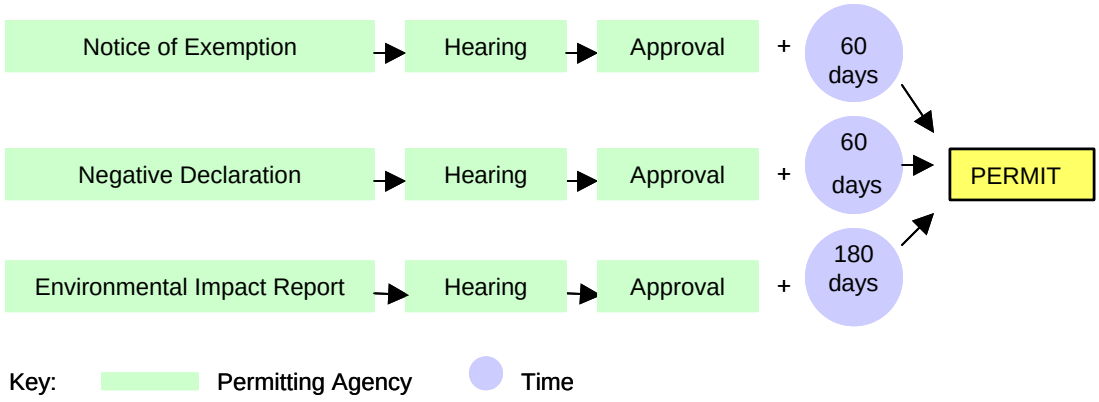
The PSA establishes time limits within which the review and approval or denial of a conditional use permit proposal must occur. For example, if an EIR is certified for a conditional use permit, the application for the conditional use permit must be acted upon within 180 days from the date of certification. A proposal for which a Negative Declaration is adopted or a CEQA exemption is issued must be acted upon within sixty days of that action. The PSA provides that failure to meet its deadlines will result in automatic approval of the conditional use permit. However, the permit can only be deemed approved if public notice and an opportunity to be heard have been provided either by the agency or by the applicant. Exhibit 7 represents the PSA timeline for a conditional use permit. The PSA is described further in Appendix E.

Public Hearings. The California Code of Regulations requires a public hearing to be held on an application for a conditional use permit. As a quasi-judicial act, the approval of a conditional use permit requires the board or administrator to adopt written findings to support their action. Whether the proposal has been approved or denied, the decision can be appealed to a higher body, usually the Board of Appeals, the Planning Commission, or City Council, in accordance with the city or county zoning ordinance. The appeals body may reverse or affirm, wholly or partly, or may modify the decision.

[11] *The Planner's Trainer Series: The Conditional Use Permit.* Governor's Office of Planning and Research (OPR). http://ceres.ca.gov/planning/cup/condition.htm

Permit applicants and permitting agencies indicated that in their opinion, one of the most difficult permits to obtain is a conditional use permit, because of the NIMBY factor. Neighbors often oppose construction of additional refined petroleum product storage facilities in their communities. Conditional use permits often require the project to comply with ordinances pertaining to aesthetics, noise, and traffic. For example, two permit applicants in the Bay Area emphasized the complexity to comply with city ordinances regarding site landscaping and visual impacts. "Proposed projects should not affect a scenic vista or highway. No new equipment should be visible from residential areas; any new equipment that might be visible is expected to blend with the existing site to an extent where the changes would not be noticeable." One project was modified to comply with the fifteen percent landscaped site mandate buy the city. The second project was cancelled.

Exhibit 7. PSA Conditional Use Permit Timeline



2.3.2. Building Permits

Municipal Planning Departments are charged with the enforcement of the Uniform Building Code, the National Electric Code, the Uniform Plumbing Code, the Uniform Mechanical Code and other applicable codes as adopted by the city, county and the State of California. Building permits are required for construction or modification of petroleum product storage facilities. City or county building departments issue building permits if the permit application package is complete, the project complies with all applicable building codes, and the project has received all other approvals (e.g., conditional land use permits, air permits, etc). The building permit process is not subject to CEQA review or to the time limits imposed by the Permit Streamlining Act.

A typical design review takes approximately six to eight weeks for approval from the time a complete application is submitted. The length of time it takes for approval of the building permit application depends on the complexity of the proposed project (which will affect the duration of the design review), the schedule for Planning Commission and/or City Council meeting(s), how quickly and completely the applicant can respond to requests for information, and whether permit applications from other applicants are

submitted to the permitting authority at the same time. Several sets of maps, drawings, and reports need to be submitted with the application form to be distributed to the different offices within the Planning Commission, such as plumbing, electrical, civil engineering, fire department, etc. Thirty percent of interviewees commented on delays in building permits due to the fact that the documentation submitted to the city was either misplaced or lost in the distribution process and had to be resubmitted.

Almost eighty percent of permit applicants indicated that more staff and training was needed at the municipal level and there was an almost universal desire for training on refined products. The lack of knowledge of the petroleum industry contributed to a significant extension of permitting timeline if staff does not have adequate background knowledge to evaluate the permit applications.

All aboveground storage tanks (AST) containing hazardous materials must be permitted by the local fire department under the Uniform Fire Code. A petroleum product storage facility is required to complete a Spill Prevention Control and Countermeasure (SPCC) Plan. The local fire departments are responsible for issuing permits for approving Risk Management Plans. Local fire departments are also responsible for assuring that the City fire codes are implemented. Every city has different fire codes, and the requirements of some local codes exceed the requirements of the State Fire Code Regulations. Modifications and construction of storage tanks are required to implement technologies imposed by the city, and in some cases city governments have requested that applicants install fire protection systems that go beyond the requirements of the existing State Fire Code and/or existing city fire codes. A negotiation process between the applicants and the fire department may be needed, which can delay the permitting process. For example, one permit applicant reported that the fire protection system proposed for the facility was a fully automated system, however, the local fire department requested a different system exceeding current code.

2.3.3. Air Permits: Permit to Construct and Permit to Operate

The principal air emissions from petroleum product storage facilities are volatile organic compounds (VOCs). In the presence of sunlight and heat, VOCs react with nitrogen oxides in the air to form ground-level ozone, the main ingredient in smog. Ground level ozone causes health problems by damaging lung tissue and sensitizing the lungs to other irritants. Local and regional Air Pollution Control Districts (APCD) or Air Quality Management Districts (AQMD) have the authority to issue permits for stationary sources of air emissions. Types of permits include:

- Authority to Construct. The ATC permit allows construction of a new facility or the installation or the modification of equipment at an existing facility.
- Inspection & Temporary Operation. Following construction, installation, or modification, Air District staff inspects the facility to ensure proper installation of all equipment. A temporary operating period is allowed for testing, calibration, and demonstration of compliance with conditions of the ATC.
- Permit to Operate (P/O). The P/O allows continued operation in accordance with all permit conditions and local, state, and federal air pollution requirements.

- Operating Permit. The P/O is re-evaluated every year and is updated as necessary to ensure compliance and to reflect any changes to local, state, or federal requirements.

In non-attainment areas, California's emission permit programs for new and modified stationary sources are referred to as New Source Review (NSR) programs. NSR requirements govern the building and expansion of stationary air emission sources such as petroleum product storage facilities. Under the NSR program, Air Districts evaluate the potential emission increases from new and modified stationary sources. If emission increases are above specified levels, the Air District requires the source to apply best available control technology (BACT) to control emissions. After BACT is applied, the project's remaining air emission levels are then compared to another specified level called the offset threshold. Offsets are required to mitigate any emission increases remaining after BACT has been applied. These offset requirements are usually at a ratio greater than one to one (e.g., a 100 pound per day emissions increase may have to be offset by 110 pounds per day of emission reductions). Offsets are emission reductions at the project location or at a nearby location, which compensate for the expected increase in emissions from the project. If a source reduces its emissions beyond what is required under NSR, it can receive emission reduction credits (or ERCs), which can be sold at a future date or used by the facility to offset future projects.

Each California APCD or AQMD has adopted its own set of regulations. Regulations differ primarily because of an Air District's status in meeting the federal or state ambient air quality standards. Air Districts not meeting the ambient air quality standards will have more stringent emission standards and potentially more complex permitting requirements. Each Air District has adopted specific procedures for evaluating permit applications for Authority to Construct (ATC). The following paragraphs give a general overview of the air permitting process.

Procedures. The local Air District staff first reviews the application to determine whether it contains complete and accurate information. If not, the staff returns it to the applicant specifying what additional information must be provided. When the Air District accepts the application as complete, the staff evaluates it for conformance with the New Source Review Rule, Air District, state and national emissions limitations, and national and state ambient air quality standards. The Air District requires applicants to calculate maximum expected quarterly emissions from the new source. In addition to evaluating criteria pollutant emissions from the proposed source, the Air District will also evaluate the emissions of relevant non-criteria pollutants or toxic air pollutants from the proposed facility.

After completing the evaluation, the air pollution control officer (APCO) decides whether to approve, conditionally approve, or disapprove an Authority to Construct. The APCO writes a preliminary decision and publishes a notice providing thirty days for the CARB (California Air Resources Board), the U.S. EPA, and the public to submit written comments about the preliminary decision. The APCO must consider all written comments and make a final decision within 180 days after accepting an application as complete. The Air District may take about four to six months to review an application for an Authority to Construct.

Construction of petroleum product storage facilities requires CEQA review. The APCO shall issue or deny the Authority to Construct within 180 days of the date on which the

CEQA lead agency approves the project. If the Air Pollution Control District is the lead agency in a project that requires CEQA review, the Air District shall prepare and act on CEQA requirements and permit processing. Once the APCD/AQMD approves the project by certifying the EIR, air quality permits (Authority to Construct) can be issued.

Appeals. If the APCO denies an Authority to Construct, the applicant may appeal the decision within 10 days of the denial notice to the district's Hearing Board. The Hearing Board conducts a public hearing at which the applicant, Air District staff, and the general public may present testimony. The Hearing Board must reach a decision within thirty days of receipt of the appeal, unless the applicant and the Air District agree to additional time.[12] Once the APCO issues a permit, the public participants in the permit proceedings, which include all those who filed comments, may file a petition to the Hearing Board to appeal the issuance of the permit. That petition needs to be filed within thirty days of the decision being rendered.

2.3.4. Other Permits

Construction of storage facilities require additional permits not discussed in detail in this study. Based on information received from respondents to this study these permits do not usually represent a significant hurdle or critical path in the permitting process. Construction-related permits may be required from the California Occupational Safety and Health Administration (CalOSHA) for demolition, construction, excavation, and erection of towers and cranes. For transportation of heavy construction equipment requiring the use of oversized transport vehicles on state highways, applicants must have a Caltrans transportation permit. Modifications to existing facilities may require revisions to the facility National Pollutant Discharge Elimination System (NPDES) permit issued by the Regional Water Quality Control Board (e.g., permits for storm water runoff.) Applicant can apply for these permits concurrently. These permits generally take no longer than sixty days to obtain or revise, and generally do not represent significant bottlenecks with respect to the overall permitting timeline.

Exhibit 8 shows the steps of a typical permitting process by any Air Quality District in California. The permits are individual Authorities to Construct for each emission unit associated for the proposed project.

[12] California Air Resources Board. www.arb.ca.gov

Exhibit 8. Generalized Authority to Construct Process for Stationary Sources

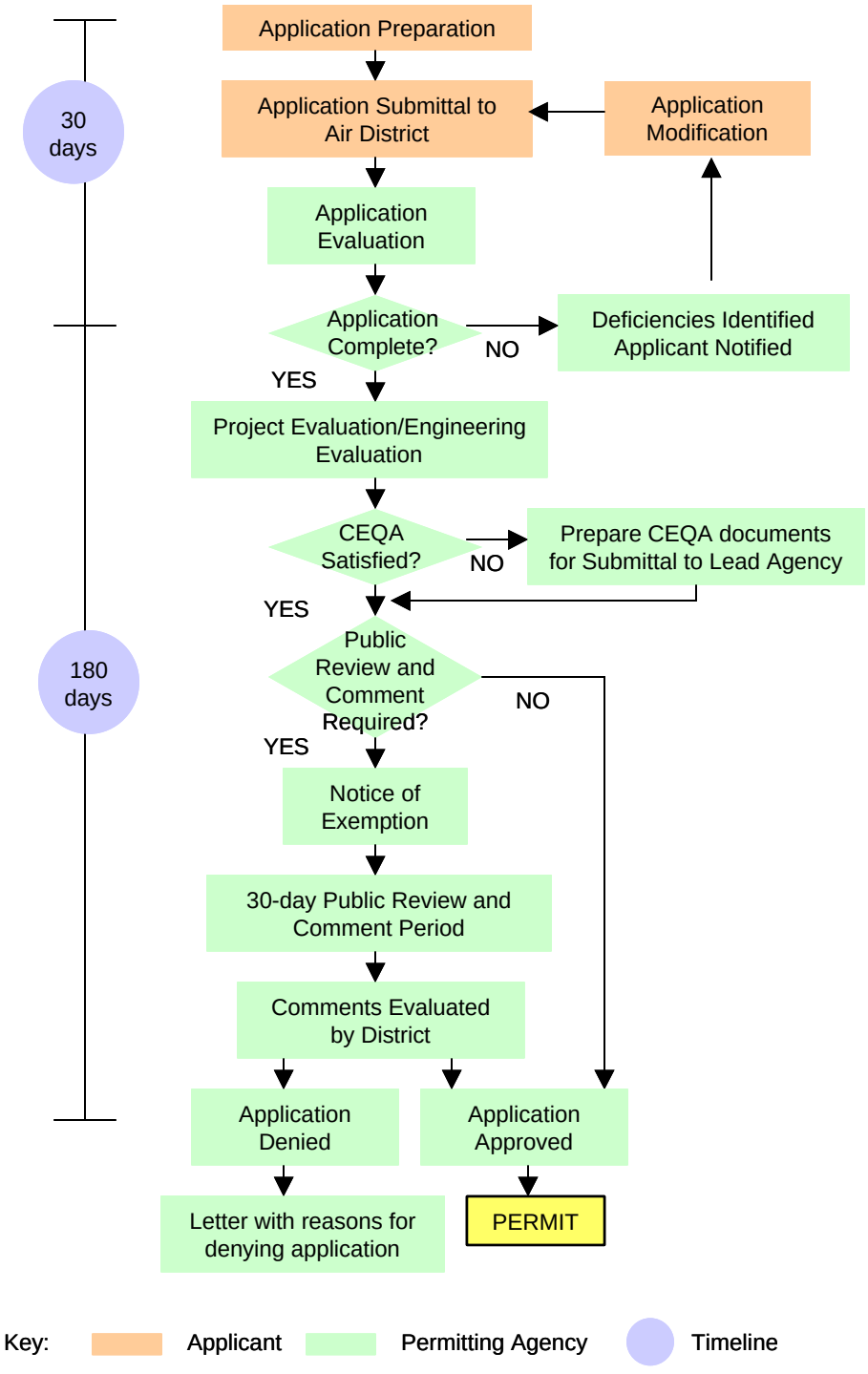


Exhibit 9 captures information provided by project respondents regarding the time normally required to obtain permit approval from the different agencies and local municipalities prior to the construction of petroleum product storage tanks in the state of California. The objective of Exhibit 9 is to identify the permits that have created delays or bottlenecks in the overall permitting process.

Exhibit 9. Permits Timeframe

Agency	Requirement	Delays	Time
State			
State Water Resources Control Board (SWRCB)	National Pollutant Discharge Elimination System (NPDES) Permit/ Wastewater Discharge		3 to 6 weeks
Caltrans	Transportation Permit		6 to 8 weeks
CalOSHA	Construction-related permits		4 weeks
California Coastal Commission	Development Permit		2 to 6 months
Regional or Local			
CEQA lead agency	California Environmental Quality Act (CEQA) Review	**Yes**	18 to 32 months
	Building, Grading, Plumbing and Electrical Permits		4 weeks to 6 months
City	Land Use Permit (if conditional use permit if needed)	**Yes**	4 weeks to 24 Months
	Building Permit		2 to 3 months
Fire Department	Hazmat Permit		2 to 6 months
Air District	Permits to Construct	**Yes**	3 to 6 months
	Title V: Permits to Operate		3 to 6 months

Source: Conversations with permit applicants and permitting agencies

2.4. Permitting Cost

This section discusses the overall cost for permitting petroleum product storage facilities. Project respondents indicated that permitting costs vary from city to city and no two permitting processes are identical. Responses regarding permit process costs ranged from one percent to twenty-five percent of total project capital cost, depending upon factors such as feasibility and CEQA-related studies consulting fees and legal fees. About half of the respondents indicated that these permitting costs were less than ten percent of the total cost of the project. The total cost of a project is considered to be confidential information. To provide an order of magnitude understanding of potential project capital costs, Exhibit 10 shows estimated construction costs for a generic 2.5 MMB (million barrel) petroleum product storage facility in the northeastern United States. Permitting costs are captured under Engineering, Design, and Inspections (ED&I). Respondents indicated that engineering and design costs are always higher than permitting and inspection costs. From this exhibit it can be assumed that permitting costs can fall below the ten percent range.

Exhibit 10. Estimate Construction Cost of Generic 2.5 MMB Tank

Item	Estimated Cost $ Millions
Land	Excluded
Site Work	$5.3
Concrete	$3.6
Metals	$0.8
Finishes	$1.1
Storage Tanks	$4.1
Mechanical	$5.9
Electrical	$3.1
Subtotal	$33.8
ED&I @ 25%	$8.5
Subtotal	$42.3
Contingency @ 25%	$10.6
Total	$52.9

Source: Report to Congress on The Feasibility of Establishing Heating Oil Component to the Strategic Petroleum Reserve. U.S. Department of Energy .1997

2.4.1. Permitting Costs Overview

The principal components of permitting costs for petroleum product storage facilities include the cost to prepare permit applications and other relevant documents, (in-house or contractor labor hours), permitting fees, as well as the important but difficult to quantify cost of delayed project construction. Participants emphasized the need for a faster, more responsive permitting process with firm deadlines for agency and public review, comment, and public participation to reduce those costs.

Industry respondents indicated that permit fees are small and do not contribute significantly to the total permitting costs. Agency respondents indicated that permit fees

do not cover the cost to the agencies. Environmental and planning consulting fees can be significant, as can be the cost of uncertainties, delays and changing market conditions. Forty percent of the respondents complained that California New Source Review rules are poorly written with no clear *de minimus* trigger for emission offsetting. One respondent complained; "unanticipated costs were introduced after our application was submitted due to regulators imposing BACT or ERCs." This is an important issue with respect to "uncertainty cost." Applicants should be able to identify the regulatory requirement at the inception of their project. If additional studies such as traffic study, health risk assessment, or an environmental impact statement are required, costs could be much greater than anticipated. Sometimes the proposed project requires changes in design to accommodate comments received in the thirty-day review process by the general public or responsible agencies. This results in additional costs to produce supplemental or subsequent EIRs, not to mention the cost of changing the project design itself.

2.4.2. Permit Fees

Land Use and Building Permits. Agencies are allowed to charge applicants directly for permit processing. (i.e., in the form of an hourly rate or in the form of a flat fee). These fees are not established by state law but by municipal ordinances, and will vary greatly between cities. In some cities, filing fees paid up front are credited toward the evaluation fee. Exhibit 11 shows a sample of permitting fees charged to applicants. Information on permitting fees was gathered from applicants and permitting agencies.

Air Permits. Each Air District sets its own filing, evaluation, and emission fees. These fees cover the costs of reviewing applications, issuing permits, and ensuring compliance. Permit fees may range from $100 to $5,000 in major metropolitan areas. As represented in Exhibit 11, these permitting fees can be flat fees or hourly rates charged by the agency for permit processing. For example, the South Coast Air Quality Management District charges a flat fee to review permit applications while the San Diego Air Pollution Control District charges an hourly fee.

2.4.3. Consulting Fees

Due to staffing levels of local agencies, the number of projects, and previous commitments agencies may not be able to process the application in a timely matter. The agency could contract a planning consulting firm that specializes in providing contract support staff to assist governmental agencies. If the applicant wants to receive faster service they may choose to use the planning consulting services. The planning consulting firm assigns a planner to assist the agency in the processing of the project. The planner works under the agency's direction in accordance with city procedures and policies, coordinating all aspects of the project including the environmental review, correspondence and staff reports. This service is provided at cost, typically at a rate of $90 per hour. To assist in the review, the consultant, as appropriate, may use background information submitted by the applicant. In some cities, a minimum deposit of $10,000 is required to retain these services. Any deposit remaining when the process

is completed is refunded. If the cost of service exceeds the deposit, additional funds are requested.

Twenty percent of respondents indicated that a common practice among permit applicants, to accelerate the permitting process, is to contract the services of their own consulting firm to develop their own environmental studies. This means, in some cases, that two separate sets of environmental reports are being prepared for the same project by two different applicant-funded consultants. Sometimes the studies prepared under the direction of the applicant may be shared with the consultants under the direction of the permitting agency. In other cases, the studies prepared under the direction of the applicant also serve as a tool to revise the studies provided by the agency. This practice duplicates the costs of environmental reviews. Depending on the project location and the complexity of the project, consulting fees to prepare an EIR can range between $50,000 to $250,000.

Exhibit 11. Examples of Permitting Fees

Permit	Fee Ranges
Land Use Permit	
Site Plan Review	$500
Conditional Use Permit	$409 to $4,450
Special Use Permits	$13,751
Site Development Permit	$2,000 to $11,430
Tentative Map Review	$1,507 Plus $35 per lot
Commission Review and Approval Process	$3,850
Design reviews	$80 per hour (minimum 4 Hours)
Appeals to Planning Commission and City Council	$175
Building permit	
Grading permit application fee	$150
Engineering Review	$1,250 up to $4,392
Building Permit & Site Plan Review Fee	$75 per hour
Building/Electrical/Fire	$2,300 up to $4,385
Landscape Deign Review	$125 to $500
Air Permits	
AQMD Authority to Construct Filing Fee	$67
Time and Materials Labor Rate/hour	$73 to $110
Stationary Container [Gallons)	
40,000 to 399,999	$2,304 to $4,222
400,000 or greater	$2,876 to $5,278
Permit Fee based on Pollutants emission	Fee/Ton Pollutant
Nitrogen Oxides (NOx)	$37
Volatile Organic Compounds (VOC)	$28 to $37
Sulfur Oxides (Sox)	$37
Total Suspended Particulate (TSP)	$37
ERC application filling fee	$120 up to $146
Applications to transfer ERCs	$730
Title V Permit.	$100 to $5,000
CEQA related fees	
CEQA “Lead Agency” for analyzing, processing and distributing environmental documents.	$300 to $5,000
Notice of Exemption (upon applicant request)	$180
Initial Studies	$200 up to actual cost plus 25%
Consultant Administration/Negative Declaration	$1,284 up to actual cost plus 25%
Mitigated Negative Declaration	$2,702 up to actual cost plus 25%
Environmental Impact Report	$2,400 up to actual cost plus 25%

Permit	Fee Ranges
Supplemental or Subsequent EIR	$3,605 up to actual cost plus 25%
Addendum to EIR	$2,702 up to actual cost plus 25%
CA Dept. of Fish & Game: Review of NDs	$1,250 by law
CA Dept. of Fish & Game: Review of EIRs	$850 by law
Consultants	
Environmental Impact Report	$50,000 to $250,000
Lawyers fees for CEQA Process	Up to $400 per hour

Source: Conversations with applicants, permitting agencies, and information published on Agency Internet sites

3. SURVEY RESULTS

This Section presents the results from interviews conducted with permit applicants, agencies, and local jurisdictions involved in the permitting process for petroleum product storage facilities across the state of California. The objective of the survey was to understand the existing permitting process and the constraints on permit approvals that have prohibited or delayed the construction of storage facilities. Appendix A lists the companies and agencies contacted contains a sample survey and Appendix B. Eighty percent of permit applicants requested to remain anonymous. The study team has categorized the responses in three categories: land use permits, building permits, and air permits. The following section provides examples of some of the responses.

3.1. Land Use Permit

Applicant comments:

- Inexperienced staff on industry issues. Staff expertise mostly in residential planning. Slow work by city planning staff when reviewing permit applications.

- Planning Commission assumes that all petroleum storage facilities need an Environmental Impact Report up front before granting the conditional use permit.

- Applicants have to contract the services of their own consulting firm to revise the studies provided by the agency's contactor, duplicating the cost for consulting fees.

- Several appeals by environmental groups and labor union to the Planning Commission to invalidate the Environmental Assessment Panel decision to issue Negative Declarations or Mitigated Negative Declarations, resulted in additional legal fees. The appeal process took more than a year to obtain the Conditional Use permit. One company abandoned a proposed project to construct storage tanks facilities for this reason.

- Catering too much to citizen appellant's schedules. Hearing was delayed a couple of months because neighbor went on vacation.

- Local agencies don't have any appreciation for state mandate, they don't feel the urgency to comply with CARB III, and applications can sit on their desks forever.

- Landscape and architectural review can be a big hurdle. In some cases the requirement is that at least fifteen percent of the constructed area be landscaped. Depending on the size of the site this ordinance could prohibit the construction of a storage tank facility.

- We were forced to change our scope of work based on ongoing jurisdictional conflicts and delays due to these conflicts. This set applicant back so far into the review timeline that a drastic scope change was the only option and the project cost several thousand dollars more to construct as a result.

- The arduous permitting process in California involving numerous stakeholders takes twice as long as other U.S. locations.

Agency Comments:

- Applicants do not submit complete applications. It is the applicant's responsibility to present a complete application, the failure to do so results in delays in the permitting process.

- The construction of a new storage tank facility will need a complete Environmental Impact Report depending on the area in which it is being built.

3.2. Building Permits

Applicant Comments:

- Ministerial permits, such as building permits, often involve complex negotiations over the interpretation of building, zoning, fire safety and other codes and regulations, including appeals. City/County staff reviewing applications are not familiar with how the Building Codes or Municipal Codes should apply.

- The Design Review Committee is supposed to encompass all departments to perform a preliminary review of the project scope. After the application package was submitted, it again went to the same departments and took just as long as if it had never been reviewed before.

- A very basic scope is submitted and the amount of time it may take the Building Department to review and approve the package can be exorbitant.

- Final Design is expected with application including engineering details, plumbing, electric, and civil engineering designs. Changing the engineering design is not a trivial operation.

- Fire protection requested by certain fire departments exceeds current code. Fire protection proposed in the tank farm was fully automated, but they wanted more.

- If an application is submitted for a small addition to the facility, the entire facility would be reviewed.

- Permit applicant submitted an application to build new storage tanks at the Long Beach Port. The application was never commented on, the applicant requested two meetings to find out the reason for the delay. They never got a response. The project was cancelled.

- Building and Planning Commissions give an estimated turnaround time at the time of the application submittal and some even have policies about the time to process the plans. More often than not, the city does not adhere to their own established timeline and have no reason to offer as to why the review has gone well past said timeline.

- Building Commission should offer step-by-step checklists of things to do in order to get a permit.

- Local agencies only meet twice a month for hearings, they have different agendas such as politics and reelections.

Agency Comments:

- The Commission role is to enforce city rules and ordinances. Applicants should contact the agency prior to start the permitting process to avoid surprises along the way.

3.3. Air Permits

Applicant Comments:

- Agencies do not have enough staff to review permits. Experienced work force is retiring. Air Districts send permit applications out to be reviewed by contractors. Contractor's comments are beyond the scope of project. New issues came up four months after application was submitted.

- California has stricter New Source Review (NSR) regulations than the Federal NSR regulations in the local Air Districts. State-level NSR reviews may require Best Available Control Technology (BACT) control equipment and/or emission offsetting for Volatile Organic Compounds (VOCs) that would not be required if the project were not in California.

- Air District NSR rule is written poorly with no clear de-minimus trigger for emission offsetting.

- NSR reviews may require BACT control equipment and/or emission offsetting for VOCs. Agency imposes BACT or ERCs. Agency was not able to produce supporting documentation to back up their BACT requirements.

- Company incurred in legal fees because their BACT were not approved at the beginning.

- Tank was empty for one month before it was inspected. Company needed to train agency inspectors to inspect work completion. Delays were attributable to staff inexperience, changing policies, and changing rules.

- California does not have a large community bank for ERCs. Additionally, recent power construction projects in the area have tied up existing ERCs.

- Although all applicants had problems within the permitting process, applicants from the Bay area indicated that not all agencies or local governments work the same

way. As an example they indicated how easy it was to obtain an air permit from the Bay Area and the Yolo/Solano Air Quality Management Districts.

- Respondents also indicated that they have experienced delays at the city level in the Bay Area and delays based on more stringent air requirements in the Los Angeles area.

Agency Comments:

- No funding to increase staff. Trained and experienced staff leaves to better jobs.
- The South Coast Air Quality Management District has implemented a permit Streamlining Task Force in 1999 to add efficiency to its permitting process.
- For an easier and faster permitting process build the facility in a non-populated area, zoned as industrial with better air quality.

4. RECOMMENDATIONS AND METHODOLOGIES FOR POTENTIAL IMPROVEMENT

The permitting and environmental review processes in California are complicated in general. The permitting processes for petroleum product storage facilities are even more complicated than for other types of facilities. There are several agencies and many stakeholders involved in both the permit and environmental review processes. Hundreds of federal, state, and local laws and rules may apply to a particular project.

4.1. Recommendations

One of the principal bottlenecks with respect to permitting of petroleum product storage facilities is related to land use and zoning. Cities and counties regulate land use by way of planning, zoning, and subdivision controls. There are currently fifty-eight counties and approximately 468 incorporated cities in California, each with substantially the same authority for land use regulation.

Interviews with permit applicants for new product storage facilities indicated that the most difficult permits to obtain, and the ones holding up the entire permitting process, are one or more of the following permits: air quality permits; land-use approvals, such as conditional use permits; and building permits.

Based on responses from permit applicants and permitting agencies the study team provides the following recommendations:

- Provide training and technical assistance services to city and county building department staff to facilitate permits reviews and field inspections of new petroleum product storage facilities.

- Provide training to local planning and building officials, when needed, in performing CEQA reviews for issuing permits for petroleum product storage facilities.

- Provide an independent review of the practice whereby two environmental review studies are prepared at the same time, for the same project, both funded ultimately by the project applicant. Evaluate ways to eliminate this duplication of effort and cost, while avoiding conflicts of interest.

- Applicants should request preapplication conferences or “scoping” meetings with the permitting agencies to discuss how agencies’ specific rules will apply to their proposed projects. The PSA requires all state and local agencies to list the information and the criteria they will use in evaluating a project application.

- Establish a system where permitting agencies at the state, district, and municipal level set up, at the inception of the permitting process, a schedule and milestones for the permit review process and establish systems and procedures for the transfer of information among the permitting agencies. Municipalities should work together with the State-level and regional-level agencies with respect to review of the permit applications submitted at the city level. If the local authorities coordinate with the regional and state-level staff reviewing various permit applications, the transfer of information could speed up the permitting process.

- Expand participation in Certified Unified Program Agencies and the Unified Program to the Air Districts, Water Districts, local building and zoning, etc.

- Provide statewide authority for implementing and enforcing the Permit Streamlining Act.

- The agency responsible for implementing the PSA should establish a timeline and milestones for each permitting project, and the agency should track whether the timeline and milestones are being met, and provide for corrective action in the event that they are not being met.

- Update General Plans and zoning ordinances indicating where petroleum product storage facilities are either allowed, require permits or zoning changes, or are prohibited. Clarify when there is a need for a conditional use permit.

- Reduce discretionary decisions by individual permit writers, especially at the local level. Permitting agencies should make their decisions based on specific written guidelines and standardized information requirements. If two developers apply for permits for the same type of facility in the same jurisdiction at different times, they should be subject to a similar permitting process and similar permit requirements, and should be required to submit the same general level of detailed information to the agency.

- Promote standardization of regional building and fire codes.

4.2. Methodologies for Potential Improvements

This section identifies specific actions that the State might implement to improve the permit process to accommodate cost effective and timely construction of needed refined petroleum storage facilities.

4.2.1. Permitting Time

Coordination of Permit Review Processes

Permitting time for petroleum product storage facilities might be reduced significantly if permit applicants, planners, and permitting agencies staff meet earlier in the permitting process to explain the proposed project and to obtain complete information on permit requirements such as general plan policies, zoning requirements, engineering standards, city policies, permits fees and timing. This means also that the permitting agencies should not change the requirements or introduce substantial new requirements during the permit process, as some respondents have reported.

Agencies Can Integrate Reviews. CEQA provides a unique opportunity for streamlining efforts to share information and planning responsibilities with other affected agencies early on, so the environmental review process takes less time. Uncoordinated processes, on the other hand, put agencies and the public in adversarial positions

delaying actions that are important to local and regional economies, as well as actions that are intended to improve the environment. While an efficient CEQA process requires that all interested agencies become involved in proposals early on and remain involved until solutions are found, many agencies have failed to use CEQA in this way.

Applicants suggested the following recommendations to streamline the permitting process:

- Combine similar reviews and eliminate unnecessary procedures.
- Establish coordination among agencies— how well agencies share information and integrate planning responsibilities with other agencies early in the process.
- Schedule review steps to run concurrently.
- Provide a definite time period for completion of reviews.
- Decrease uncertainty in the review process by reducing the number of discretionary decisions.[13]

Although many individuals and agencies may be involved in the local development review process, designating a single agency for permit coordination will reduce the number of agencies and departments the applicant must deal with during the process. The applicant should be able to make a single visit to the permitting agency to gather all information and forms relevant to the construction or upgrade storage facilities. Municipal governments should work together with the State-level and regional-level agencies on the review of permit applications submitted at the municipal government level to ensure better coordination.

Creation of development review ombudsman. The ombudsman's role is to assist applicants through the local review process by serving as primary contact throughout the process, responsible for tracking review progress, spurring things along where needed, and reporting status or additional information needs back to the applicant. The ombudsman is typically selected from among the local review staff and must be intimately familiar with local development, refined petroleum storage tanks regulations, and all aspects of the review process.

Standardization of Permit Review Processes

An approach for standardizing the permitting process of petroleum product storage facilities would be to establish a “unified program” for permitting such facilities. Currently, the various permit applications required for permitting of new and expanded facilities are reviewed by separate agencies at separate times using separate processes. Municipal agencies, in particular, may not have ready access to information prepared by

[13] Discretionary decisions require that the local review official rely heavily on his or her own judgment when making a development approval decision, since specific evaluation criteria are not included in the relevant local development regulations. The regulations may only include general guidelines for decision making, such as "appropriate landscaping should be provided" or "design of new construction should be compatible with pre-existing development in the area." Non-discretionary decisions are instead based on specific criteria that are made explicit prior to project review. These criteria are specific enough to eliminate the need for judgment calls by the review official. For example: "10-foot wide landscaped buffers shall be provided; these shall include trees selected from Table B, planted at even intervals of between 20 and 25 feet down the center of the buffer area." The development approval is typically awarded immediately after the developer demonstrates compliance with all applicable evaluation criteria.

the applicant or by other permitting agencies for other permit applications. One way to remedy the situation would be to establish a "unified program" under which the various agencies have access to the same information and are in direct communication throughout the permitting process.

An excellent example at the state level is the California Environmental Protection Agency's Unified Program.[14] The Unified Program (UP) was created by Senate Bill 1082 (1993) to consolidate, coordinate, and make consistent the administrative requirements, permits, inspections, and enforcement activities for the following environmental and emergency management programs:

- Hazardous Materials Release Response Plans and Inventories (Business Plans)
- California Accidental Release Prevention (CalARP) Program
- Underground Storage Tank Program
- Aboveground Petroleum Storage Act Requirements for Spill Prevention, Control and Countermeasure (SPCC) Plans
- Hazardous Waste Generator and Onsite Hazardous Waste Treatment (tiered permitting) Programs
- California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements

The Unified Program is intended to provide relief to businesses complying with the overlapping and sometimes conflicting requirements of formerly independently managed programs. The Unified Program is implemented at the local government level by Certified Unified Program Agencies (CUPAs). Most CUPAs have been established as a function of a local environmental health or fire department. Some CUPAs have contractual agreements with another local agency, a "participating agency" (PA) that implements one or more program elements in coordination with the CUPA. The success of the Unified Program depends on the effective working partnerships of local, state and federal agencies. Local agencies (CUPAs, and PAs) have created a partnership and formed the California CUPA Forum.

The following state agencies are involved with the Unified Program:

- California Environmental Protection Agency (Cal/EPA)
- Department of Toxic Substances Control (DTSC)
- Governor's Office of Emergency Services (OES)
- Office of the State Fire Marshal (OSFM)
- State Water Resources Control Board (SWRCB)

[14] http://www.calepa.ca.gov/CUPA

4.2.2. Permitting Costs

Survey responses indicate that some permitting agencies may not have enough trained staff to manage their workload of permit applications in a timely manner. Some permitting agencies, mostly at the local level, charge permit applicants a flat permit fee to review each permit application submitted, while other permitting agencies, mostly Air Districts, charge permit applicants an hourly rate for the time spent reviewing the permit application.

Expansion of Permit Fees. Changing the permitting agency fee structure from a flat fee structure to an hourly rate structure may allow agencies to recover more of the actual cost to evaluate applications. Generally, flat fees are relatively modest and do not cover all of the permit review costs. Permit driven agencies or departments within an agency should be able to sustain themselves with the fees charged to the developer to cover the actual operating costs to process and review the permit application. Expansion of the "hourly fee" approach to include both permit review and overhead costs would allow permitting agencies to hire additional staff.

Eliminate Duplication of EIR Preparation Costs. As previously described, a common practice among project developers is to contract the services of a consulting firm to prepare an EIR, in addition to the EIR being prepared by a consulting firm contracted by the agency. This means that for some projects two EIRs are being prepared for the same project at the same time by two different consultants, both funded by the applicant. The effects of this practice and methods to eliminate the need for duplicate EIRs should be studied further. One potential approach to eliminate duplicate EIRs is for the applicant to participate directly and on a day-to-day basis in the development of the EIR prepared by the consultant under contract to the agency. The applicant would provide funding to the consultant through the agency, and the agency would be responsible for reviewing, approving, and issuing the EIR, and would be responsible contractually for the consultant. However, the applicant and permitting agency would coordinate with the consultant to establish a schedule, scope of work, and milestones for preparation of the EIR. Developers, permitting agencies and contractors would work together throughout the process in the preparation of the EIR.

4.2.3. Streamlining Statutes

Following are examples of statutes that are applicable to and might be useful for improving the permitting process for petroleum product storage facilities in California.

California Permit Streamlining Act. The California Permit Streamlining Act (PSA) sets time limits for permitting actions. This act is little known among stakeholders involved in the permitting process, and therefore little effort is made to comply with the PSA. There is no agency within California specifically tasked with implementing the PSA. This is a fundamental problem. If the requirements of the Act are not promoted by a single agency responsible for its implementation, neither applicants nor permitting agencies will become familiar with the Act and with the importance of compliance with the Act. Also, in the absence of an implementing agency, the only way to enforce the PSA is for the

applicant to sue the permitting agency for noncompliance with the provisions of the Act, which most applicants are unwilling to do.

Environmental Permit Streamlining Act (ESB 6188) (TPEAC).[15] The Washington State Environmental Permit Streamlining Act (RCW 47.06) is an example of a permit streamlining mechanism whose purpose is to coordinate streamlining the environmental permitting process for transportation projects. This statute creates an interagency Transportation Permit Efficiency and Accountability Committee (TPEAC), which is responsible for creating a sustained focus on achieving both the transportation and environment goals of the state. Transportation Permit Efficiency and Accountability Committee (TPEAC) includes senators and representatives from the state legislature, state agencies, local government, and business, trade and environmental organizations. Federal and tribal agencies are also invited to participate. Public involvement is an essential part of the streamlining process through public outreach activities, performance reports, and public attendance at TPEAC meetings. California could adopt a similar interagency committee to streamline the permitting process to construct or modify petroleum product storage facilities.

[15] Washington State Department of Transportation. Environmental Permit Streamlining Act (ESB 6188) (TPEAC) http://www.wsdot.wa.gov/environment/streamlineact/default.htm

APPENDIX A – COMPANIES AND AGENCIES INTERVIEWED

Exhibit 12. Companies Contacted

Company Name	Location
BP	Carson, Long Beach, Richmond, San Diego, Signal Hills, South Gate, Stockton, West Sacramento
Cenco Refining company	Santa Fe Springs
Chevron	Eureka, Huntington Beach, Martinez, Montebello, Richmond, Sacramento, San Diego, San Jose, Tracy, Van Nuys,
Coast Energy Group	Bakersfield
Equilon/Shell	Long Beach, San Diego, San Jose, South San Francisco, Stockton, West Sacramento, and Wilmington
Exxon Mobil	Anaheim, San Diego, and Vernon
Getty Terminals Corporation	Bronx in New York
IMTT	Richmond
Kinder Morgan	Brisbane, Chico, Fresno, Imperial, Long Beach, Milpitas, Niland, Orange, Rancho Cordova, San Bernardino, San Diego, San Pedro, and Stockton
Kern Oil & Refining Company	Bakersfield
Oiltanking Houston Terminal	Houston, Texas
ST Services/Shore Terminals LLC	Crockett, Martinez, Richmond, Stockton and Wilmington
Valero (Ultramar)	Bakersfield, Carson, Benicia, and Wilmington
Tesoro Refining and Marketing Company	Vancouver and Anacortes in Washington
VOPACK	Wilmington

Exhibit 13. Agencies and Organizations Contacted

Bay Area Air Quality Management District
California Air Resources Board
California Department of Fish & Game
California Office of Permit Assistance
City of Martinez
City of Richmond City
Independent Liquid Terminals Association
Port of Long Beach
Port of Los Angeles
San Diego Air Pollution Control District
South Coast Air Quality Management District
Texas Commission on Environmental Quality
York Engineering LLC

APPENDIX B – SAMPLE SURVEY

The purpose of this survey is to understand the necessary efforts that must be undertaken to obtain permits for the construction, or expansion of refined products storage facilities in the State of California. The outcome of this project may serve as basis to make recommendations to permitting agencies to streamline the permitting process.

Your response would be kept confidential if you desire to do so.

Confidential ____Yes ____ No

1. Permitting Process for:
   - o Facility Name
   - o Facility Type: ____ Refinery _____Terminal
   - o Facility Location:
   - o Proposed Project description:
   - o Fuel type/Tank Capacity:
   - o Other?
2. Please list the permits and the issuing Agencies (City/local, County, Regional, State, and Federal,) that your storage facility required prior to construction and before the start of operations. Please include as many rows as necessary.
3. How long did it take you to obtain each permit? If you don't have exact dates, please estimate the time it took you to obtain each permit or provide us a timeline of your permitting process experience.
4. Would you please estimate the cost incurred on each permit.

Agency	Permit Name	Application Submitted	Permit Approval Date	Estimated Cost
City Planning or Building Commission				
Fire Department				
Police Department				
AQMD/APCD				
Water District				
Environmental Health Department				
Others				

5. What, according to you, were the biggest hurdles for obtaining these permit? Which Agency or permits took longer? Why?

6. Please describe any bottlenecks, redundancies, or other unnecessarily burdensome regulatory processes that added undue cost and delays to your permitting process. Please explain.

Permit Name/Agency	Comments

7. Did the scope of your project change after it was reviewed by the permitting agencies? If yes, please explain.

8. What, according to you, needs to be changed so that the permitting process could be accelerated? Please provide recommendations on how to streamline the process.

9. How would the proposed changes impact your company?

10. How would you compare the costs, associated with the permitting process, relative to the total project cost? If known. What percentage of the total project cost were they? When were these costs incurred; at the beginning of the permitting process or towards the end?

11. In the past (if relevant), did you feel like you spent more or less time obtaining a similar set of permits? How long ago was that?

12. If you have to go through the same process again what would you do differently?

13. Do you have experience on storage tanks permits procedures in other states (TX, LA, NY, NJ, or WA)? How do they differ from the permit process in California?

14. Would you like to include information not requested in this survey that might be useful in the development of this project?

Thank you for your participation!

APPENDIX C – CEQA OVERVIEW

The California Environmental Quality Act (CEQA) was enacted in 1970 as a system of checks and balances for land-use development and management decisions in California.[16]

Environmental review is characterized by an Environmental Impact Report (EIR). The EIR records the scope of the applicant's proposal and analyzes all its known environmental effects. Project information is used by state and local permitting agencies in their evaluation of the proposed project.

Once the lead agency is identified, all other involved agencies, whether state or local, become responsible or trustee agencies. Responsible and trustee agencies *must* consider the environmental document prepared by the lead agency and *do not*, except in rare instances, prepare their own environmental documents. The procedure for issuing each particular development permit is governed by the particular law which establishes the permit authority and by the California Permit Streamlining Act.

There are three major phases in the development process as provided by CEQA and the PSA: The Pre-Application Phase, The Application Phase, and The Review Phase.

I. Pre-Application Phase:

The Pre-Application Phase begins when the developer-applicant has completed the conceptual and preliminary design work for a project and is ready to prepare a project proposal. At this point, enough information should be available to describe project activities and to identify the project's proposed location. The primary objective of this phase is to identify the appropriate permitting agencies and to collect as much relevant background information possible.

Many proposals (projects) will require special studies either before or during the formal processing of the application. All state and local agencies are required to list the type of information and the criteria they will use in evaluating a project application. Developer-Applicants may request preapplication conferences or "scoping" meetings with the permitting agencies to discuss how agencies' specific rules will apply to their proposed projects. By the end of the pre-application phase, the developer-applicant should have a good understanding of the detailed project information required, a list of probable permitting agencies, and an indication of the degree of environmental analysis required by the agencies. The agency with the greatest authority over the project will usually assume the lead agency role, all other involved agencies, whether state or local, become responsible or trustee agencies.

II. The Application Phase:

The Application Phase begins with the filing of the necessary permit application forms along with a detailed project description. Supporting documents must also be filed, where CEQA requires, with responsible agencies. Unless otherwise specified, the

[16] Governor's Office of Planning and Research: Overview of the California Environmental Review and Permit Approval Process. Online at http://ceres.ca.gov/topic/env_law/ceqa/guidelines/intro.html

sequence of filing applications is left up to the applicant. It must be noted, however, that the failure of some agencies to accept an application until certain other permit approvals have been granted does not in any way impact the time limits under which the agency must act.

During this phase, each receiving agency must review the submitted application to determine if the individual filing is complete. The lead agency must make its determination in writing within thirty days. Should the agency fail to make its determination within thirty days, the application will be deemed accepted as complete by operation of law. If the application is determined to be incomplete, the agency *must* specify the deficiencies and the manner in which the deficiencies may be corrected. The developer-applicant may then refile the corrected application. Upon refiling, the agency has another thirty days to review for completeness. If the application is again determined to be incomplete, the agency must provide a process for an appeal of the determination and reach a decision within sixty days. Further dispute may be adjudicated. This step is critical to the process. A permit may not be denied for failure to provide information not requested.

Once an application is accepted as complete, the lead agency has six months to approve or disapprove a project for which an Environmental Impact Report (EIR) has been certified. The time limit in all other cases is three months after a Negative Declaration is adopted or an exemption issued.

III. Review Phase:

The Review Process begins immediately with the completion of the specific application. In recognition of §65941 of Chapter 4.5 of the Permit Streamlining Act, the lead agency will simultaneously review the project under the applicable permit rules and conduct the necessary environmental analysis. Permit rules vary depending on the particular permit authority in question, but the process generally involves comparing the proposed project with existing statutes. The procedure usually results in a public hearing followed by a written decision by the agency or its designated officer. Typically, a project may be approved, denied, or approved subject to specified conditions.

The CEQA procedure involves a number of steps which produce an environmental document examining the lead agency's as well as the responsible and/or trustee agencies' permit decisions. The first step in the CEQA process is to determine whether the proposed project is subject to CEQA. There are a number of statutory and categorical exemptions. If the proposal is not covered by CEQA, the lead agency may file a *Notice of Exemption*. If the project is covered by CEQA, the lead agency must prepare an *Initial Study* to determine whether the project may have a significant adverse impact on the environment. The Initial Study must be completed within thirty days after an application is accepted as complete.

If the Initial Study shows that the project will not have a significant effect on the environment, the lead agency must prepare and circulate a *Negative Declaration.* Where potential significant effects are shown, but the project is modified such that the effects are rendered insignificant, the lead agency must prepare and circulate a mitigated Negative Declaration. In either case, the Negative Declaration must be circulated for review for thirty days and must be ready for adoption by the lead agency within 105 days after a completed application is accepted. If, on the other hand, the Initial Study shows

that the project may have one or more significant effects, the lead agency must circulate a *Notice of Preparation (NOP)* in anticipation of preparing an Environmental Impact Report (EIR) and must consult with responsible and trustee agencies as to the content of the environmental analysis. Responsible agencies must respond to the NOP within thirty days. If a responsible or trustee agency fails to respond, the lead agency may assume that the responsible agency has no response to make. Further, if a responsible agency fails to respond or responds incompletely, the responsible agency may not subsequently raise issues or objections regarding the adequacy of the environmental review.

At the close of this period, the lead agency must prepare and circulate a *Draft Environmental Impact Report (DEIR)*. All concerned agencies and the public may review the DEIR. All comments on the DEIR must be made within the forty-five day review period. At the close of the review and comment period, the lead agency must respond to the comments received. Comments from responsible or trustee agencies shall be limited to those project activities which are within the agency's area of expertise, are required to be carried out or approved by the agency, or will be subject to the exercise of powers by the agency. The lead agency prepares and certifies a *Final Environmental Impact Report (FEIR)*. If the lead agency approves the project, it must find that each significant impact will be mitigated below the level of significance where feasible, and that overriding social or economic concerns merit the approval of the project in the face of unavoidable effects. With the CEQA and permit review process completed, the lead agency must approve or deny the permit within six months of certifying the EIR or within three months of adopting the Negative Declaration and file a *Notice of Determination (NOD)*. Responsible agencies must then act within six months after the lead agency's action or, if the developer-applicant has not already filed an application with a responsible agency, within six months from the time the application is filed.

Environmental documents for projects involving one or more state agencies or involving issues of area wide or statewide significance must be sent to the State Clearinghouse for distribution to interested state agencies. The State Clearinghouse will link the lead agency with the responsible state agencies.

Special Concerns in the CEQA/Permit Process

There are several key points that agencies, developer-applicants and the public must be aware of in order to avoid misunderstandings and delays:

- The time limits for completing the requirements of CEQA and acting on a permit are concurrent and not consecutive. The Permit Streamlining Act discourages a government agency from requiring a completed EIR before accepting a permit application.
- CEQA can help resolve public policy disputes relating to development projects. Technical issues that find their way into policy disputes, no matter how dependent on scientific considerations, are inherently value-laden. CEQA specifically addresses the potential for conflicting expert discussions and mandates that all sides of an issue are considered.
- Under the Permit Streamlining Act, if a public agency does not approve or deny a project within the statutory time limit, the project may be deemed approved. The proponent must give notice to invoke the Permit Streamlining Act.

- The Permit Streamlining Act time limits are not applicable to all permit applications. Time limits only apply to development projects as defined in the PSA. The Streamlining Act specifically excludes ministerial permits such as certain building permits. The time limits do not apply to legislative actions such as the adoption or amendment of zoning ordinances. The time limits do not operate where a federal law specifies a longer or shorter period for action and, *with* the consent of the developer-applicant, the lead agency may waive the time limit if a joint environmental document is being prepared with a federal permitting agency.
- Where a public agency (or series of agencies) will issue more than one permit for a project, the agency(ies) makes each approval separately, but must still act upon the entire project within the statutory time limit.
- All Permit Streamlining Act time limits are maximum. Public agencies should act in a shorter time whenever possible.
- Members of the public may challenge, in court, a wide variety of public agency action and inaction, but only if they first present those challenges to the agency itself within thirty to 180 days after the occurrence of the challenged action, depending upon whether an Notice of Declaration was filed or not by the agency.

CEQA Glossary

Comment Letters. Letters written by the AQMD commenting on the air quality analysis to ensure impacts from the proposed projects were accurately identified and mitigation was applied to lessen the impact.

Environmental Impact Report (EIR). A detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects.

Initial Study. A preliminary analysis prepared by the Lead Agency to determine whether an EIR or a Negative Declaration must be prepared or to identify the significant environmental effects to be analyzed in an EIR.

Lead Agency. The public agency with the principal responsibility for carrying out or approving a project. The Lead Agency decides whether an EIR or Negative Declaration is required for a project, and causes the appropriate document to be prepared.

Mitigated Negative Declaration. A Negative Declaration that incorporates mitigation measures into the design of the project or establishes measures as conditions of project approval to avoid significant effects.

Mitigation Monitoring Program. When a lead agency adopts a mitigated Negative Declaration or an EIR, it must adopt a program of monitoring or reporting which will ensure that mitigation measures are implemented.

Negative Declaration. A written statement prepared by the Lead Agency that briefly describes the reasons that a project, not exempt from CEQA, will not have a significant effect on the environment and therefore does not require the preparation of an EIR.

Notice of Determination (NOD). A brief notice filed with the State Clearinghouse to document project approval. The filing of the NOD starts the statute of limitations period

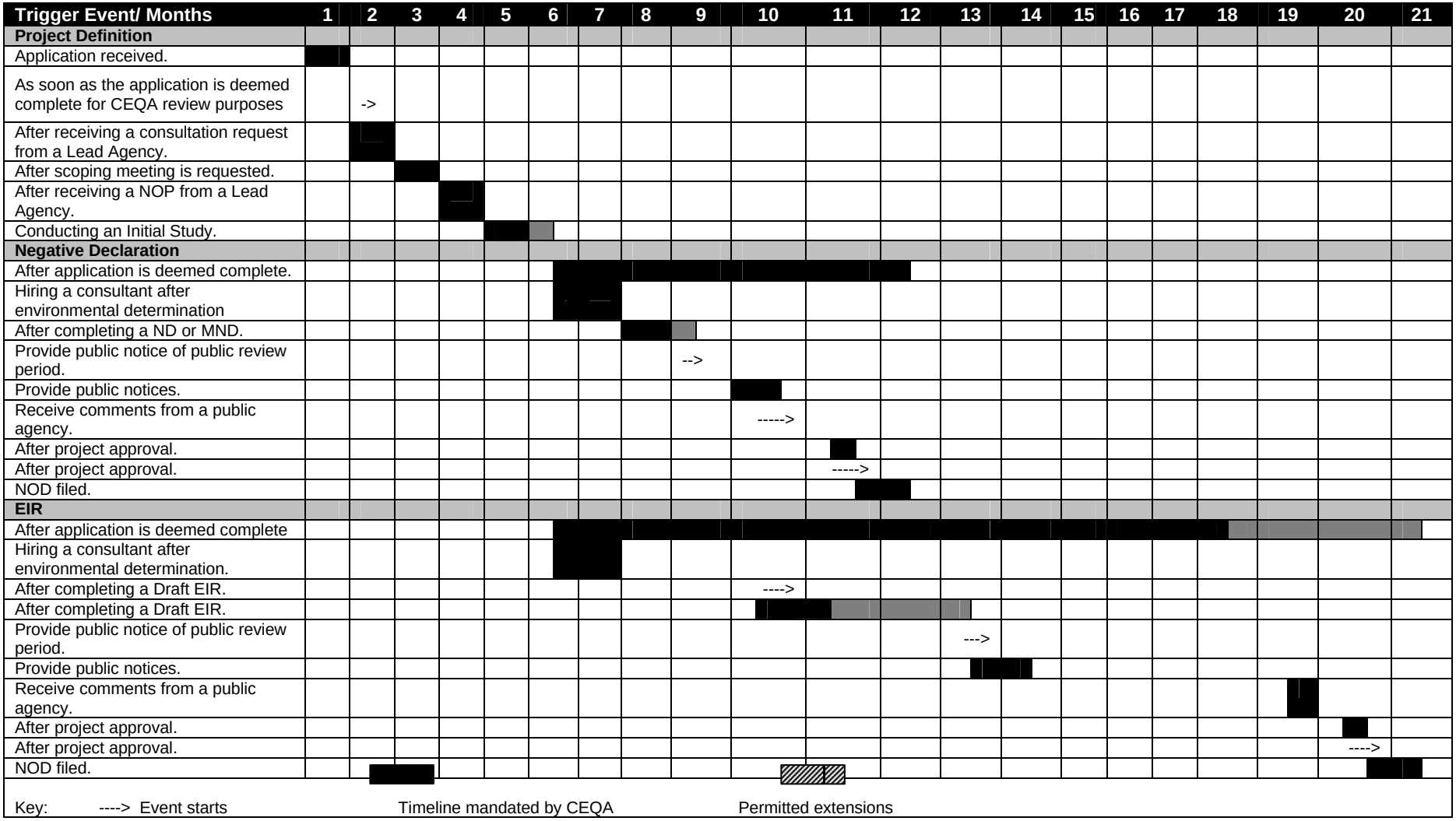
Notice of Preparation (NOP). A brief notice sent by the lead agency to notify the responsible agencies, trustee agencies, and involved federal agencies that the lead agency plans to prepare an EIR, or Environmental Assessment with significant impacts for the project. The purpose of the notice is to solicit guidance from those agencies as to the scope and content of the environmental information to be included in the EIR or EA with significant impacts. An Initial Study, or preliminary analysis, is prepared and traditionally accompanies the NOP.

Responsible Agencies. Under CEQA, responsible agencies are all public agencies other than the Lead Agency that have discretionary approval power over the project.

Scoping meeting. An optional meeting under CEQA in which the lead agency meets with members of the public or agency representatives after the Notice of Preparation has been issued to discuss environmental issues related to a project. Scoping sessions provide the opportunity to discuss environmental issues, project alternatives and potential mitigation measures that may warrant in-depth analysis in the environmental review process

Trustee Agencies. Have jurisdiction over certain resources held in trust for the people of California. The State Department of Fish and Game is one of four trustee agencies. The others include the State Lands Commission, the Department of Parks and Recreation, and the University of California. Trustee agencies are generally required to be notified of CEQA documents relevant to their jurisdiction, whether or not these agencies have actual permitting authority or approval power over aspects of the underlying project..

Exhibit 14. CEQA Timeline



APPENDIX D – ENVIRONMENTAL CHECKLIST FORM

1.	Project title:		
2.	Lead agency name and address:		
3.	Contact person and phone number:		
4.	Project location:		
5.	Project sponsor's name and address:		
6.	General plan designation:	7.	Zoning:
8.	Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)		
9.	Surrounding land uses and setting: Briefly describe the project's surroundings:		
10.	Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)		

Environmental Factors Potentially Affected:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

?	Aesthetics	?	Agriculture Resources	?	Air Quality
?	Biological Resources	?	Cultural Resources	?	Geology /Soils
?	Hazards & Hazardous Materials	?	Hydrology / Water Quality	?	Land Use / Planning
?	Mineral Resources	?	Noise	?	Population / Housing
?	Public Services	?	Recreation	?	Transportation/Traffic
?	Utilities / Service Systems	?	Mandatory Findings of Significance		

Determination: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

?	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
?	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
?	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
?	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
?	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature Date

Signature Date

Evaluation of Environmental Impacts:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially

significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance

SAMPLE QUESTION

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista?	?	?	?	?
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	?	?	?	?
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	?	?	?	?
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	?	?	?	?
II. AGRICULTURE RESOURCES -- In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	?	?	?	?
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	?	?	?	?
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	?	?	?	?
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	?	?	?	?
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	?	?	?	?
d) Expose sensitive receptors to substantial pollutant concentrations?	?	?	?	?
e) Create objectionable odors affecting a substantial number of people?	?	?	?	?
IV. BIOLOGICAL RESOURCES -- Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	?	?	?	?
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	?	?	?	?
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	?	?	?	?
d) Interfere substantially with the movement of any native resident or migratory fish or	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	?	?	?	?
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	?	?	?	?
V. CULTURAL RESOURCES -- Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?	?	?	?	?
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?	?	?	?	?
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	?	?	?	?
d) Disturb any human remains, including those interred outside of formal cemeteries?	?	?	?	?
VI. GEOLOGY AND SOILS -- Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving	?	?	?	?
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
Special Publication 42.				
ii) Strong seismic ground shaking?	?	?	?	?
iii) Seismic-related ground failure, including liquefaction?	?	?	?	?
iv) Landslides?	?	?	?	?
b) Result in substantial soil erosion or the loss of topsoil?	?	?	?	?
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	?	?	?	?
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	?	?	?	?
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	?	?	?	?
VII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	?	?	?	?
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	?	?	?	?
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	?	?	?	?
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
significant hazard to the public or the environment?				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	?	?	?	?
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	?	?	?	?
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	?	?	?	?
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	?	?	?	?
VIII. HYDROLOGY AND WATER QUALITY -- Would the project:				
a) Violate any water quality standards or waste discharge requirements?	?	?	?	?
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	?	?	?	?
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	?	?	?	?
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	?	?	?	?
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
polluted runoff?				
f) Otherwise substantially degrade water quality?	?	?	?	?
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	?	?	?	?
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	?	?	?	?
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	?	?	?	?
j) Inundation by seiche, tsunami, or mudflow?	?	?	?	?
IX. LAND USE AND PLANNING -- Would the project:				
a) Physically divide an established community?	?	?	?	?
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	?	?	?	?
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	?	?	?	?
X. MINERAL RESOURCES -- Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	?	?	?	?
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XI. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	?	?	?	?
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	?	?	?	?
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	?	?	?	?
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	?	?	?	?
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	?	?	?	?
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	?	?	?	?
XII. POPULATION AND HOUSING -- Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	?	?	?	?
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	?	?	?	?
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
XIII. PUBLIC SERVICES				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	?	?	?	?
Police protection?	?	?	?	?
Schools?	?	?	?	?
Parks?	?	?	?	?
Other public facilities?	?	?	?	?
XIV. RECREATION				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	?	?	?	?
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	?	?	?	?
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	?	?	?	?
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	?	?	?	?
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	?	?	?	?
e) Result in inadequate emergency access?	?	?	?	?
f) Result in inadequate parking capacity?	?	?	?	?
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	?	?	?	?
XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	?	?	?	?
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	?	?	?	?
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	?	?	?	?
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	?	?	?	?

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project=s projected demand in addition to the provider=s existing commitments?	?	?	?	?
f) Be served by a landfill with sufficient permitted capacity to accommodate the project=s solid waste disposal needs?	?	?	?	?
g) Comply with federal, state, and local statutes and regulations related to solid waste?	?	?	?	?
XVII. MANDATORY FINDINGS OF SIGNIFICANCE				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	?	?	?	?
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	?	?	?	?
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	?	?	?	?

APPENDIX E – PERMIT STREAMLINING ACT

The California Permit Streamlining Act mandates specific timeframes local and state governments must comply with when processing permits. The intent is to provide clarity and consistency to the permit process. The PSA sets forth various time limits within which public agencies must either approve or disapprove a permit. If a public agency does not approve or disapprove a permit within those time limits, the permit "may" be deemed approved under PSA.[17]

Article 3. Applications for Development Permits

65940. Each state and local agency shall compile one or more lists, which shall specify in detail the information that will be required from any applicant for a development project.

65941(b) If a public agency is a lead or responsible agency for purposes of CEQA, that criteria shall not require the applicant to submit the information equivalent of an EIR as part of a complete application, or otherwise require proof of compliance with that act as a prerequisite to a permit application being deemed complete.

65944(a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940.

Procedural Requirements:

All public agencies must establish one or more lists specifying, in detail, the information required from applicants for a development project (§65940). Upon receipt of a project application containing a statement identifying the application as being for a "development permit," an agency has thirty calendar days to notify the applicant, in writing, of whether or not the project application is complete enough for processing. When rejected as incomplete, the agency must identify where deficiencies exist and how they can be remedied. The resubmittal of the application begins a new thirty-day review period. If the agency fails to notify the applicant of completeness within either of the thirty-day periods, the application is deemed to be complete (§65943; Orsi v. City Council (1990) 219 Cal. App. 3d 1576). If rejected as incomplete a second time, the applicant may appeal the decision to jurisdiction's hearing body who must make a final written determination within sixty calendar days. Again, failure to meet this time period constitutes acceptance of the application as complete.

Once complete and accepted, the agency then proceeds with the CEQA process, and the approval or denial of the project.

The Permit Streamlining Act includes time limit provisions for taking action on a project after the environmental determination is made. When an EIR is certified for a project, the public agency shall approve or deny the project within 180 days from the date of certification. When a project is found to be exempt from CEQA or a Negative Declaration

[17] The California Permit Handbook 1996/97 published by the Office of Permit Assistance of the California Trade and Commerce Agency.

is adopted for a project, the public agency shall approve or deny the project within sixty days from the date of the determination or adoption (§65950 and Public Resources Code §21151.5). If no action is taken within the allotted time, the project may be deemed approved by action of the Act. An application can only be deemed approved as a result of failure to act if the requirements for public notice and review have been satisfied (§65965).

Two options are available to an applicant to ensure that these requirements are met (§65956(a) and §65956(b)): (a) the applicant may file an action pursuant to Section 1085 of the Code of Civil Procedure (civil mandamus) to force the agency to provide notice or hold a hearing, or both; (b) if the applicant has provided seven days advance notice to the permitting agency of intent to provide public notice, an applicant may provide public notice using the distribution information provided pursuant to §65941.5 no earlier than sixty days from the expiration of the time limits. The notice must include the required contents as provided for by §65956(b) and a statement that the project will be deemed approved if the permitting agency has not acted within sixty days. Notice by the applicant extends the time limit for action by the permitting agency to sixty days after the public notice is sent out.

APPENDIX F – COMPARISON WITH OTHER STATE PERMIT PROCESSES

The approach used to compare the California permitting process with other states was to identify new facilities or facilities that recently expanded petroleum storage capacity in New York, Washington, Texas, and North Carolina in the past two years. The 2000 and 2002 editions of the *OPIS/STALSBY Petroleum Terminal Encyclopedia* were used to identify these facilities.

Similar to the California Environmental Quality Act, eighteen other states have their own state-level NEPA statute or environmental review processes resembling NEPA. States with state-level environmental review requirements or state-level NEPA statues require state and local agencies to perform environmental impact analyses when granting permits. Exhibit 15 shows a list of states with environmental review requirements. The New York State Environmental Quality Review Act, the North Carolina Environmental Policy Act, and the Washington State Environmental Policy Act will be discussed briefly after the exhibit.

Exhibit 15. States with Environmental Review Requirements

State	Environmental Review Requirements
California	California Environmental Quality Act
Connecticut	Connecticut Environmental Protection Act of 1973
Dist. of Columbia	District of Columbia Environmental Policy Act of 1989
Florida	Environmental Protection Act of 1971
Georgia	Georgia Environmental Policy Act
Hawaii	Hawaii Environmental Policy Act
Indiana	Indiana Environmental Policy Act
Maryland	Maryland Environmental Policy Act of 1973
Massachusetts	Massachusetts Environmental Policy Act
Michigan	Thomas J. Anderson Act
Minnesota	Minnesota Environmental Policy Act of 1973
Montana	Montana Environmental Policy Act
New York	New York State Environmental Quality Review Act
North Carolina	North Carolina Environmental Policy Act of 1971
Puerto Rico	Public Policy Environmental Act
South Dakota	South Dakota Environmental Policy Act
Virginia	Virginia Environmental Quality Act
Washington	Washington State Environmental Policy Act of 1971
Wisconsin	Wisconsin Environmental Policy Act of 1971

Source: Public Law Research Institute. University of California, Hastings College of the Law.

New York

The New York's State Environmental Quality Review Act (SEQRA or SEQR) came into effect in 1978. "The basic purpose of SEQR is to incorporate the consideration of environmental factors into the existing planning, review and decision-making processes of state, regional and local government agencies at the earliest possible time. To accomplish this goal, SEQR requires that all agencies determine whether the actions they directly undertake, fund or approve may have a significant impact on the environment, and, if it is determined that the action may have a significant adverse impact, prepare or request an environmental impact statement." SEQR applies to public and private projects, the definition of projects is similar to CEQA's and it applies

whenever an agency is making a discretionary decision on an action that may affect the environment as Type I, Type II or Unlisted.

Type I actions require careful examination since they are more likely to have a significant impact. If more than one agency is involved in the review of a Type I action, a coordinated review is required and a lead agency must be established. A full Environmental Assessment Form (EAF) must be completed. Example of Type I actions include: [18]

- Non-residential projects physically altering ten or more acres of land;
- Zoning changes affecting twenty-five or more acres of land;
- Adopting land use plans (e.g., comprehensive plan).

Type II actions are actions that Department of Environmental Conservation (DEC) has determined will not have a significant adverse impact on the environment. Therefore, no further SEQR review is required. Example of Type II actions include: [19]

- Constructing or expanding a primary, non-residential structure with less than 4,000 sq. ft. of gross floor area;
- Non-discretionary approvals, such as building permits.

Unlisted actions are those actions not included in any statewide or individual agency lists of Type I or Type II actions. Unlisted actions require a SEQR review since they range from minor zoning variances to complex construction activities that fall just below the threshold for Type I actions. At minimum, a short EAF must be completed. If more than one agency is involved in the review, a coordinated review is optional.

Important Steps in the SEQR Process:

Determining Significance. The agency conducting the SEQR review must determine if a proposed action may or will not have significant adverse impacts on the environment. Impacts must be evaluated for both severity and importance. During this evaluation, an agency must consider all components or phases of the proposed action (the "whole action"). Determinations of significance must be based on information provided by the project sponsor in an EAF, other supporting documents and comments from any involved agencies and the public. Determinations can be:

- A Negative Declaration (Neg Dec) when an agency determines that a proposed action will not result in significant adverse environmental impacts. An agency's Neg Dec must show, in writing, the reasons why the identified environmental impacts will not be significant. Therefore, an Environmental Impact Statement (EIS) is not required.

- A Conditioned Negative Declaration (CND) is a type of Neg Dec that can be issued for certain "Unlisted' actions. A CND allows an agency to impose specific conditions, outside of its routine jurisdiction, to minimize identified impacts. For example, a Planning Board could impose a condition requiring an additional

[18] For a full list of Type I actions see SEQR regulations, 6NYRR Part 617.4.
[19] For a full list of Type II actions see SEQR regulations, 6NYRR Part 617.5.

turning lane to improve traffic flow. A CND is subject to a thirty-day public comment period.

- A Positive Declaration (Pos Dec) when the lead agency determines that there may be one or more significant adverse environmental impacts from a proposed action. An EIS must be prepared.

Scoping.[20] Is a not a requirement of SEQR. However, In New York, scoping is being used to identify the topics that should be covered by the EIS, including significant adverse environmental impacts of a proposed project and alternatives that could avoid or minimize these impacts. If an agency decides to scope, it must involve community members. The cooping process starts when the project sponsor files a draft scope with the lead agency. The lead agency circulates the draft scope and solicits public involvement. An agency can also decide to hold a public scoping meeting. A final written scope of issues must be completed within 60 calendar days of receiving the draft scope.

Preparing an Environmental Impact Statement (EIS). In New York, the developer is required to prepare all the reports at their expense. The draft EIS is a primary source of environmental information related to a proposed action. The EIS also serves as a means for public review and comment on the potential impacts of the action. After a draft EIS is submitted, the lead agency must determine that it is complete and adequate for public review. Once the draft EIS is deemed complete, a minimum of 30 days is required for public review and comment. A final EIS should be prepared within 45 days of any hearings or 60 days after filing the draft EIS. The final EIS must include: the draft EIS and any revisions/ supplements; a summary of substantive comments received; and the lead agency's responses to the comments.

Holding Public Hearings. Under SEQR is optional. Hearings are part of the review process for draft EISs and cannot be held before the draft EIS and related documents are available for public review. SEQR hearings should be combined with hearings mandated by laws governing the particular action being proposed. If a SEQR hearing is held, the hearing record or summary becomes part of the final EIS.

When the SEQR process begins, the total time required for preparation, public review and finalization of an EIS varies widely, although SEQR sets time periods for some phases. If a draft EIS is sufficient for public review on its first submission and the agency elects to have a minimum comment period with no public hearing, the process could take a little less than six months following submission of the draft EIS. If the agency chooses to provide a more extensive public comment and hearing opportunities, or if the draft EIS requires substantial revisions before being released for public comment, the total time required would be extended. For a proposal covering as broad an area a longer comment period including some public forum should be anticipated, and the SEQR process could then run closer to a year from submission of the draft EIS.

Under New York has zoning laws, construction of new petroleum product storage facilities must be in industrial zones. The New York Uniform Land Use Review Procedure (ULURP) takes five months.

[20] Scoping is a process in which a Lead agency, consultant or applicant formally requests preliminary comments on a proposed project from responsible agencies and/or the public.

Washington

Washington's State Environmental Policy Act (SEPA) was enacted shortly after NEPA. SEPA, however, took a markedly different approach to environmental protection than CEQA. Rather than rely on procedural protections, such as public and agency comments on EIRs and judicial review, SEPA charges agencies with the task of mitigating environmental effects. SEPA applies, like NEPA, only to legislation and major actions having a significant effect. However, unlike NEPA, it does apply to private projects which require a permit or entitlement. The Act also follows NEPA by requiring impact reports only in cases where the effect on the environment is more concrete than speculative. Though it is clear that the scope of SEPA is considerably narrower than CEQA, there are still grounds for third party litigation and judicial review. Washington addresses this through expansive substantive requirements in SEPA.[21]

The SEPA review is intended to be integrated throughout an agency's permit review process, rather than a separate step. Most agencies make sincere efforts to process permit applications as efficiently as possible, while still addressing regulatory and environmental concerns.[22] The time needed to review a proposal will depend on the permits needed, the complexity of the project, the amount of information already available, and the need to complete additional analysis or studies. In many cases, project review may be completed in two or three months. On the other hand, completing project review for some complex projects may take years.

North Carolina

The North Carolina (State) Environmental Policy Act (SEPA) was adopted by the General Assembly into law in 1971 (G.S. 113A, Article 1). The purpose of the law, also referred to as SEPA, is to: 1) encourage the wise, productive and beneficial use of the natural environment; 2) preserve the natural beauty of the state; 3) create a public awareness of our environment; and 4) require state agencies to consider and report on environmental aspects and consequences of their actions involving the expenditure of public money or use of public land.

SEPA is a planning and decision-making tool meant to provide a thoughtful, analytical evaluation of a project's potential for impacting the quality of the environment. The evaluation is documented in the form of an Environmental Assessment (EA) or Environmental Impact Statement (EIS), depending on the impacts of the project. These documents are meant to disclose the direct, indirect, cumulative, long-range, and short-term impacts of the project. The disclosure includes the potential effects on surface and ground water resources, floodplains, wetlands, air quality, land use, wildlife resources, agricultural land, scenic and recreational areas, noise, shellfish and finfish, forestland, toxic substances (if applicable) and cultural and historical resources.

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[21] *A Primer on the California Environmental Quality Act (CEQA).* Pacific Research Institute. November 2001. Available online at http://www.pacificresearch.org/pub/sab/enviro/ceqa.html

[22] *SEPA Guide for Project Applicants.* Washington Sate Department of Ecology Environmental Coordination Section. June 2002. Available online at http://www.ecy.wa.gov

The North Carolina Department of Environment and Natural Resources (DENR) Rules for Minimum Criteria (15A NCAC 01C .0500) are used to distinguish activities with a high potential for environmental effects (major) from those with only a minimum potential (non-major). Minimum criteria for non-major activities (15A NCAC 01C .0504) have been established as thresholds at and below which environmental documentation under SEPA is not generally required.

An Environmental Assessment should be prepared if the project is not anticipated to produce significant adverse environmental impacts, if the impacts can be mitigated to a non-significant level or if the magnitude of impacts is uncertain. However, if an EA concludes that the impacts will be significant and cannot be fully mitigated, or if this is known initially, then an EIS should be prepared. A determination that an EIS is required may be made at any time during the EA review process. The North Carolina SEPA process is expected to take between 5 to 12 months if an Environmental Assessment is needed and between 12 to 24 months if an Environmental Impact Statement is necessary. County planning departments in North Carolina issue land use permits within three months of submittal of the application.

Texas

Although Texas does not have the equivalent of CEQA, Texas does have informal requirements for environmental review, and was included in the analysis because of its importance in the petroleum product terminal industry. Two terminal operators and the Texas Commission on Environmental Quality (TCEQ) were contacted during this study for information about the permitting process.

When a petroleum terminal must to be expanded, the owners must apply for air, fire, and building permits. An air permit application is filed with the TCEQ as a part of the New Source Review (NSR) process. In the case of a Houston area terminal, the terminal had accumulated enough offset emission credits for VOCs through the period 1991-1996 that it did not have to pay the fee gathered by TCEQ as a part of the permitting process. For the same reason, the air permit was issued within two weeks. Without substantial offset credits, as the average processing time for an air permit in Texas is about six months.

When in the past the same terminal had applied for "flexible" air permits (for tanks used for storing interchangeable products) the permitting process lasted considerably longer – up to two years instead of the regular six months. The respondent attributed the prolonged duration of the permitting process in this case to the fact that the agency officers were extremely busy at the time. On the other hand, several of the terminal's tanks received the permit-by-rule Standard Exemption #86[23] for construction of fixed or floating roof storage tanks that meet certain criteria, as they claimed the standard exemption for tanks that emit less than five tons per year of VOCs. The permit approval process in those cases lasted again from two to three weeks. In cases in which the tanks

[23] Standard Exemption #86 allows for a quick construction or change of service of a storage tank without the delay of getting a permit or permit amendment. It is used generally to authorize larger tanks and not smaller tanks. It allows for the construction of any fixed roof or floating roof storage tank. It also allows for the change of service for these tanks for a given compound.

had the potential to emit over five tons per year of VOCs, a vapor recovery unit (VRU) was required and the permitting process lasted again about six months.

The fire and building permits were filed with the City of Houston (The Fire Marshall's office and the Building Services Department respectively). The plan review took about twenty-two days. Overall, the whole permitting process for the latest expansion took about six months (all the permit applications were filed concurrently) and the procedure was clear. No zoning or land use permits were needed. In some parts of Texas (e.g., Houston) there are no zoning or land use laws. No environmental review was required as per CEQA. When asked to compare the process in Texas to that in California, the respondent stated, (based on his personal information) "in Texas that process is much smoother and takes less time."

A phone conversation with TCEQ staff provided the agency's perspective on the permitting process. In addition to applying for the permits, each petroleum product storage facility owner has to register their aboveground storage tanks (ASTs) with the Commission.

Permitting Time

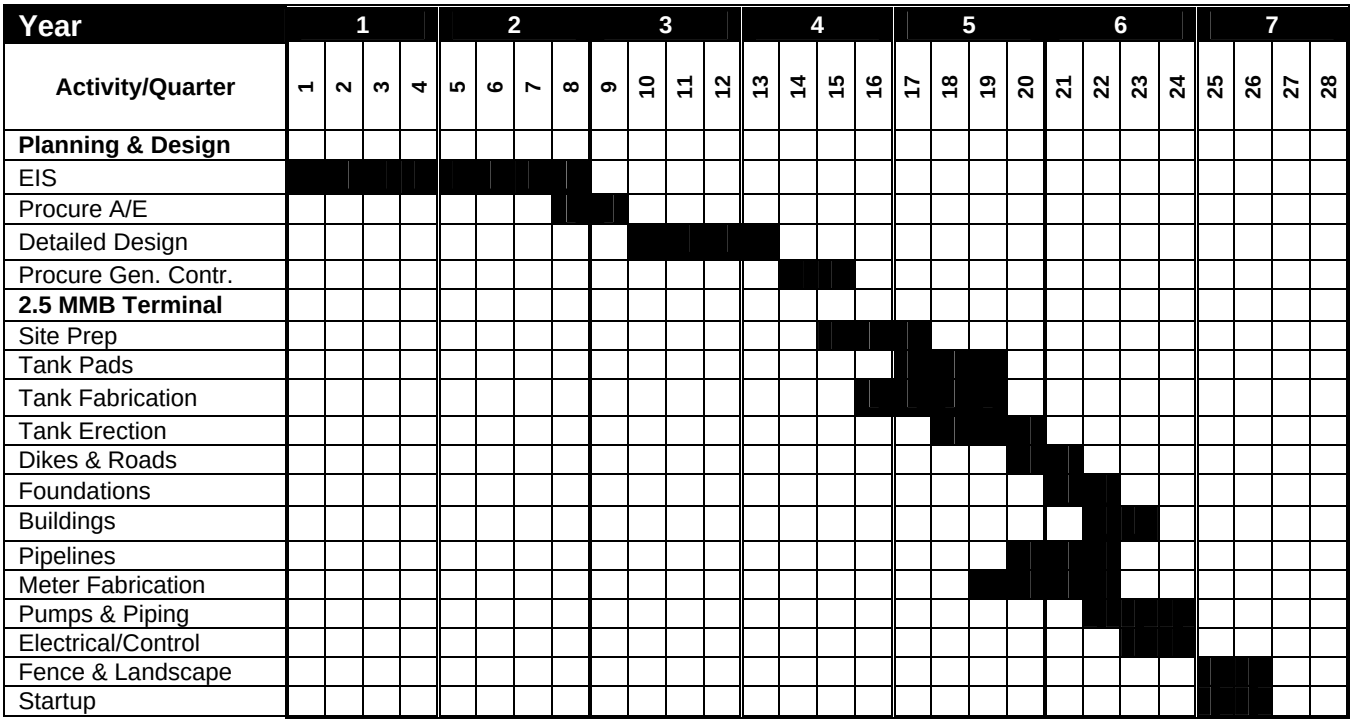
Permitting time always increases when an environmental review is conducted. Exhibit 16 compares permitting processing time by states. "As a rule of thumb, if a project needs to have an environmental review, set aside at least two years for the permitting process, if the project is located in California include an extra year for public participation." This statement by one of the survey respondents was confirmed when revising the Implementation schedule for the Heating Oil Reserve in the Northeast.[24] The schedule in Exhibit 17 includes an allowance of twenty-four months for EIS activities and presumes that all permitting can be accomplished within the time frames allotted for EIS and engineering activities.

Exhibit 16. Permit Timeline Comparison
(Months)

Permit /Time Range	California	New York	Washington	North Carolina	Texas
Environmental Process	12 - 32	6 - 24	12 - 24	5 - 24	n/a
Land Use	3 - 12	5	4	3	1
Building Permits	2 - 6	3	2 - 4	3	1
Air Permit	6 -12	3 - 9	6	4-6	1-24

Exhibit 17. Federal Storage Facility Implementation Schedule

[24] Report to Congress on the Feasibility of Establishing A Heating Oil Component to the Strategic Petroleum Reserve. Volume II: Appendix E. Second Revision: U.s. Department of Energy. June 27, 1997.



Source: Report to Congress on The Feasibility of Establishing A Heating Oil Component to the Strategic Petroleum Reserve. Volume II: Appendix E. Second Revision: U.S. Department of Energy. June 27, 1997.

Permitting Cost

Agencies or municipalities' permitting costs vary among states and localities. A contributor to cost variability are the different procedures and administrative activities involved with permitting processing, such as engineering analyses, record keeping, monitoring, training, etc.

A respondent with permitting process experience in both Texas and in North Carolina indicated that the main difference with the California's permitting process is that at the city Planning Commission level in California, a final design with engineering details is necessary when applying for a construction permit. The cost of preparing detailed engineering is high, and once detailed engineering is prepared, the developer cannot generally change "just one thing." Any design change suggested by the regulators would generally precipitate a raft of other changes, leading again to "uncertainty cost" and "schedule uncertainty." Other states do not require detailed engineering prior to issuing permits. Another respondent indicated that in the Northeast if the project requires an EIS the permitting process could be as much as $500,000. Another respondent indicated that the Missouri Department of Natural Resources is required by statue to refund permit fees associated with an application if a permit has not been addressed within the statutory timeline.